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HARVARD CITY PLANNING STUDIES

VOLUME I

AIRPORTS

Their Location, Administration, and Legal Basis

BY

HENRY V. HUBBARD, MILLER McCLINTOCK,
AND FRANK B. WILLIAMS

ASSISTED BY

PAUL MAHONEY AND HOWARD K. MENHINICK

VOLUME II

BUILDING HEIGHT, BULK, AND FORM

How Zoning Can Be Used as a Protection against
Uneconomic Types of Buildings on High-cost Land

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VOLUME V

TRANSITION ZONING

BY

ARTHUR C. COMEY

HARVARD CITY PLANNING STUDIES

V

TRANSITION ZONING

LONDON: HUMPHREY MILFORD
OXFORD UNIVERSITY PRESS

Courtesy of S. Herbert Hare

24d. BUSINESS BUILDING REQUIRED TO HAVE A REAR YARD BECAUSE ABUTTING ON A RESIDENCE DISTRICT, KANSAS CITY, MISSOURI

TRANSITION ZONING

BY

ARTHUR C. COMEY

CAMBRIDGE
HARVARD UNIVERSITY PRESS
1933

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CHAIRMAN, HARVARD UNIVERSITY SCHOOL OF CITY PLANNING

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PREFACE

The present study by Arthur C. Comey, Assistant Professor of City Planning at Harvard, is devoted to a hitherto neglected phase of zoning practice, — the specialized treatment of the *borders* of zoning districts. It presents more suitable ways of regulating buildings, the open spaces around them, and the use of land so as to mitigate the detrimental effect to property on the edge of one zoning district resulting from the actual or prospective use of adjacent property in a less restricted district.

The author's method has been to compile from an inspection of three fourths of all the zoning ordinances already adopted in the United States — as collected by the Library of the Harvard Schools of Landscape Architecture and City Planning — all the instances of such transition zoning clauses, to arrange these in categories, selecting in each case a typical example for full quotation, and to round out the subject by a few additional model clauses covering certain features not now found in effect. The diagrams and photographs with accompanying references illustrate actual experience in various cities. Legal aspects are thoroughly discussed in the light of relevant cases.

While some of the thirty-six principal categories of transition zoning methods obviously apply only in special circumstances, a considerable number would appear to be beneficial in almost any type of community; as, for example, to require, on a corner lot in a business district adjacent to a residence district on the side street, that business uses be confined to buildings fronting on the business street; to prohibit entrances to garages, except private garages, within, say, 50 feet of a residence district; to restrict specially the height of buildings along the boundary of a more restricted district; and, perhaps most important of all, to require front yards or setbacks on business frontage adjacent to residence frontage to equal the residential setback.

The many city officials who are constantly dealing with the knotty zoning problems arising from mutually inimical developments along district edges, and the practitioners of city planning and zoning who are endeavoring to draft zoning maps and ordinances which will prove to be

stable in operation, will welcome this latest addition to the series of Harvard City Planning Studies. Few men are more competent than the author to make — from personal experience and from that of the country at large — a penetrating analysis of existing practice and intelligently to suggest a common-sense future procedure.

THEODORA KIMBALL HUBBARD
Editor of Research

HENRY V. HUBBARD
Chairman

HARVARD UNIVERSITY
SCHOOL OF CITY PLANNING
March 1, 1933

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A. C. C.

Harvard University
School of City Planning
March 1, 1933

TRANSITION ZONING

PART ONE

CHAPTER I

THE PROBLEM AND ITS SOLUTION

ZONING may be said to be, among other things, the promotion of the general welfare through the differentiated regulation of the use of private property, properties similarly situated being treated alike, that is, placed in the same class of district with the same governing regulations. The picture this at once brings to mind is that of a city sharply cut up into relatively few classes of districts, or zones as they are called in some states, with the familiar regulations for residence, business, and industry, building height and bulk, and appurtenant open spaces, these being uniform throughout each class of district, any peculiar cases or even categories of peculiar cases to be dealt with under special grant of power to a board of appeals acting within a general rule.

However valuable this simple form of zoning may be, the city planner at once recognizes a certain harsh crudeness or else indefiniteness in such zoning that blunts the application of city planning technique as now developed and as now applied in most of its other phases. To be sure, zoning alone, or even in conjunction with a general city plan, is a blunt tool with which to carve out a work of art, — a fine city. At best, despite our efforts to the contrary, it remains chiefly negative in its effect: "Thou shalt not do this!" The police power, wielded for the public good by preventing the worst that might otherwise occur, is not so remote from the policeman and his club as some of our advisers suggest. In the end it is the policeman that is our reliance for preventing transgressions.

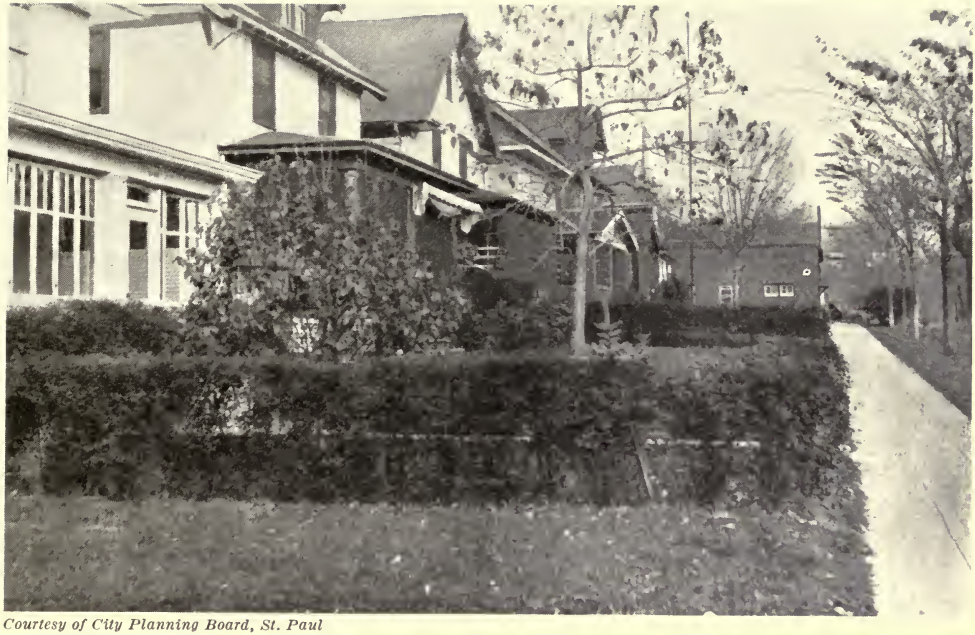
While most cities in the United States have followed zoning precedent, perhaps too slavishly, a few have introduced novel intricacies into their zoning ordinances, even to the point of being scarcely intelligible. Variations from the ordinary zoning scheme have already been multifarious, and some of these have eventually won general approval and have been copied by many cities. However, the spread of such improvements in zoning technique has been relatively slow, and it was in the hope of expediting such processes that the present research was undertaken. Its particular

field is the mitigating of the detrimental effect to property on the edge of one zoning district resulting from the actual or prospective development of adjacent property in a less restricted district. Such detrimental effect is prevalent under simple zoning practice.

The Field of Transition Zoning

A typical example is the case of a local business district extending for one lot depth or 100 feet back from the main street, and adjoining a single-family residence district embracing the lots facing on the side street. It is noteworthy that, wherever this situation is met by the city planner in the course of designing a complete residential subdivision development for an operator who himself builds either the entire community or at least the business portion, the planner so arranges the business buildings as to inflict the minimum of injury on the neighboring dwellings. His design makes these business buildings fit attractively into the general residential scheme, so that they tend to enhance rather than injure the attractiveness of the neighborhood. Where such unity of planning and action does not occur, however, as on the usual plat, the owner of the business lots builds upon them without any regard to the adjacent residential property. The ordinary zoning ordinance, treating his lot exactly as it would treat a business lot in a city block the whole of which is zoned for business, usually permits him to cover the entire lot with his building, except possibly for a very small setback, or front yard, on the street lines, to build his entire building to the full height allowed in such business districts, and to use the side street as well as the front street for ingress and deliveries. In fact, the building may be cut up into a number of individual stores, some of them with no other access than from the side street; or separate business buildings may be erected, one or more of them fronting solely on the side street. The planner and the community think of these side streets as residential streets, yet every one of them may be bottled in at its entrance by business development for the first 100 feet, and often for as much as 150 feet, from the corner. Many times, members of zoning commissions and other citizens have asked for protection under zoning from this common evil of unregulated city development. Can they not be given it?

In our example, it seems reasonable to require a business building on the corner to increase its setback on the side street to equal that required of the nearest dwelling. This is often secured in new sections by private restrictions or by platting regulations, which tends to prove the merit of the idea but does not alter the fact that neither private restrictions nor



Courtesy of City Planning Board, St. Paul

28. STORE BUILT PRIOR TO THE ZONING ORDINANCE AND NOT MEETING PRESENT SETBACK REQUIREMENTS FOR A BUSINESS CORNER ADJACENT TO A RESIDENCE DISTRICT, ST. PAUL

Courtesy of City Planning Board, St. Paul

28. STORE SET BACK AS NOW REQUIRED ON A BUSINESS CORNER ADJACENT TO A RESIDENCE DISTRICT, ST. PAUL

platting control can ever be a complete substitute for zoning. Nor can either easily be applied to already existing parts of the city. Even as used on new areas, private restrictions are not always easy to enforce and are unlikely to afford enduring protection. In most states, building lines are not an integral part of plats, so that the only method under platting which is at all practical for securing such setbacks of business buildings on side streets has been the one sometimes used in Detroit and a few other cities: widening the legal street for a distance of 100 feet from the main street to such a width that the proposed setback building line becomes a street line. Sometimes, this extra width has been utilized to establish a small park in the middle of the street, but these have proved too expensive for the city to maintain, so that usually only extra wide pavements and sidewalks result. This may be a useful expedient in new plats but still leaves the rest of the city unprotected. Zoning can be invoked to accomplish this protection.

Continuing to use our typical example, another reasonable provision is to require that business buildings shall have a yard abutting on the residential lot equal in depth to that required for the adjacent yard of the dwelling immediately across the zoning line in the residence district. If the business district has a higher height limit than the residence district, buildings near the boundary line may properly be required to set back in their upper portions so as to preserve a reasonable angle of light.

In the matter of use also, the business building in our example might be prohibited from having any means of ingress from street or yard within a specified distance of the nearest residential lot. Or, going still further, the zoning scheme may be so ordered as to prevent any independent business building, or any separate store, or finally any means of ingress at all along the side street. These latter provisions, however, while desired by many, may seem too drastic for the ordinary situation, but might be applied only where conditions make them peculiarly appropriate.

Other examples might be cited where some degree of transition from the provisions of one district to those of another would be beneficial, — beneficial certainly to the property just within the more restricted district, and so in the end beneficial to the entire community. In this respect transition zoning differs not at all from zoning in general, since zoning normally restricts property in one district not only for the benefit of other property in the same district but also for the benefit of property in adjoining districts. Moreover, in many cases, such as in the examples already cited, whatever benefits a residence district as a whole or in any

substantial part is likely to act as a benefit to the local store center serving it.

Opinions differ as to how much detail under zoning should be attempted in controlling a city's development. The United States Department of Commerce in its recent pamphlet, "The Preparation of Zoning Ordinances" (July, 1931), advises against any modification of zoning provisions because of proximity to a district boundary line; and our legal advisers have generally urged the adoption of as simple a form of zoning as possible, with uniform provisions throughout each district, as more likely to be viewed favorably by the courts. Yet there appear to be no insuperable legal barriers to a number of refinements in the method of dealing with the transition from one district to another, provided they are carefully worded and intelligently applied (for further discussion see page 10). Any detail of transition zoning that has a reasonable relation to the welfare of a neighborhood is likely to be capable of being worked out in a practical manner with the exercise of a little ingenuity. On the other hand, the fact that zoning must be carried into execution through the medium of a legally worded document, with little or no help from plans by designers except for the zoning map, makes detailed regulation almost unavoidably involved. Only where a substantial gain can be secured should such detail be considered at all.

At the outset of the present study it was assumed, largely on account of the dicta of several national authorities, who frowned on such elaboration of the zoning scheme, that little actual application of the idea of transition zoning would be found and that only through detailed analysis of theory would any substantial advance in technique be recorded. On the contrary, an inspection of over three quarters of the 1129 zoning ordinances known to be in effect in the United States in 1931

TABLE I. ZONED CITIES INVESTIGATED

Population Class of City	Total Number of Zoned Cities	Number of Zoned Cities Investigated	Percentage Investigated
Over 50,000	165	153	92.7
25,000–50,000	124	113	91.1
10,000–25,000	255	202	79.2
Under 10,000	585	392	67.0
All Classes	1129	860	76.2

disclosed at least one instance of transition zoning in practically two fifths of these, a second application of this method in one fifth, and 72 ordinances utilizing this method in three or more distinct ways.

TABLE II. FREQUENCY OF TRANSITION ZONING

Number of Instances per City	Number of Cities	Percentage of Investigated Zoned Cities with Transition Zoning
1 or more	337	39.2
2 " "	162	18.8
3 " "	72	8.4
4 " "	39	4.7
5 " "	14	1.6
6 " "	10	1.0
7 " "	3	0.3
8 " "	3	0.3
9 " "	2	0.2
10	2	0.2
Total Instances . .	644	

Many cities in the United States prohibit entrances to public garages within a specified distance of a residence district; and nearly as many provide that where a zoning boundary line divides a lot the provisions of the less restricted part may be extended a specified distance into the more restricted part. Others require yards or uniform setbacks in less restricted districts adjacent to residence districts, or occasionally reduced height. In a few cities, industries are kept far from residence districts to minimize any injurious effect. It may also be remarked in passing that several of the early zoning ordinances contain examples of transition zoning, thus making the use of transition zoning in American zoning almost as old as American zoning itself.

While by no means every conceivable application of transition zoning is already found in practice, and in many of the instances the method of application does not appear to be precisely that best calculated to achieve the desired result, the fact remains that were all the meritorious applications of transition zoning now current applied in every zoning ordinance instead of in only a few, nearly all of the deleterious effects of one zoning district on near-by property in another would be obviated. In addition to those methods which appear valid for general utilization throughout

the nation a number of instances have been recorded where this principle was utilized to accomplish some advantage peculiar to a certain community. Finally, there are a few instances where the application of transition zoning is of interest more for the ingenuity displayed than for its value to mankind; and one or two appear definitely pernicious.

Various Methods of Securing Transition

While the present research concerns itself mainly with transition zoning made effective through clauses in the zoning ordinance, there are, of course, other methods of securing the benefits sought. Certain of the national authorities alluded to previously recommend that all problems arising on the edges of districts be considered as cases of special hardship and dealt with individually by the usual board of appeals (or "adjustment," as it is known in certain states), either with or without guiding rules set forth in the ordinance. There are, however, many objections to this method. Any and all extensions of the duties of boards of appeal are viewed with disfavor in many communities on the familiar grounds: of rule by laws being sounder than rule by men, all too often proved by these very boards; the undesirability of crowding the calendar of the boards, usually unpaid, by adding this large new category of cases; the uncertainty of owners as to how they can develop their property or property they contemplate buying until the board has actually passed on their appeal for a permit; and similar arguments, none of them new but all applying with particular force to the present situation. Moreover, as zoning is ordinarily applied, what is needed in transition zoning is less apt to be the relaxing of restrictions in the more restricted district near its edge than to be the placing of additional restrictions in the portion of the less restricted district near its edge, and over this the board of appeals has, in practice, no jurisdiction whatever. Even with this difficulty overcome, few planners would wish to relinquish entirely to boards of appeal the arrangement of all transition zoning, worked out one lot at a time on appeal of the owner to the board to be allowed to go further than the letter of the ordinance permitted his neighbors to go. These are not "exceptional cases" but the normal situation along boundary lines.

A simple type of transition zoning, often urged and sometimes adopted, is that of not stepping down from the least restricted district to the most restricted without the interposition of an intermediate class of district as a buffer, which tends to mitigate the severity of the abrupt change and radical difference in use otherwise permitted. In theory this

is eminently sound, and, in an entirely new city planned with due regard to this aspect, is entirely practicable; but in the normal zoning of pre-existing cities this is often far from being a satisfactory solution. In fact, such step-down zoning may produce much greater evils than it prevents. In the typical case of an industrial district near a residence district the periphery of the industrial district is ordinarily so long that only a tithe or less of the lots in any intermediate district, such as a business district, that might be located as a belt around it are likely ever to be taken up for normal business development. The fate of the remaining lots is to be used either for dwellings, which being in a business district are apt to be inferior in type, or else for a variety of shack or "backyard" business uses, detrimental alike to the dwellings within the same district, to those in the neighboring residence district which it was intended to protect, and to the community as a whole. On the other hand, where, as in most zoning plans, such a "buffer" district is omitted, the dwellings in the area nearest the industrial district have at least the protection of residential zoning in the district they occupy; and it often happens that, subsequent to the adoption of the zoning plan, the industrial development in the industrial district itself, particularly if the district is extensive, consists so largely of substantial, even artistic, modern buildings as to have little or no worse effect on the residential neighborhood than would business buildings. It should be noted, however, that the application of certain types of transition zoning, as set forth below, will tend to mitigate any hardships to property bordering industrial districts without introducing new evils. Buffer zoning is, nevertheless, useful where it is desired to step down residence requirements between certain districts permitting radically different types of residences, such as apartments or apartments and stores adjacent to single dwellings. In Los Angeles County, zoning plans normally show a narrow interposed strip or single lot as a district of intermediate type in such cases (as illustrated by the diagram on page 48).

A special kind of buffer zoning, which has occasionally been used in limited form in actual ordinances and might be capable of meeting the precise needs outlined herein, is the establishment of very narrow districts of one or more new classes. These would simply include those lots lying between the normal business and residence districts, for example, to which the special provisions were to be applied. This would evidently be legal in principle, since all property similarly situated would be in the same district, but appears unduly cumbersome and in practice not

flexible enough to meet accurately the many varied situations along the edges of districts.

In order to preserve the residential character of a side street where it meets a business street by continuing the setback required in the residence district along the side street all the way out to the business street, another scheme may be adopted, utilizing the method already in effect in a few zoning ordinances, namely, that of placing figures on the zoning map to designate the setback on each street or part of a street where the setback is to differ from the normal setback in the rest of the district as required by clauses in the ordinance itself. The legality of this practice as at present applied evidently rests on the fact that streets similarly situated are treated alike. In effect, a system of setback districts is established, though as a rule no complete separate map is presented. There would seem to be no legal objection to using this principle to cover the case of the residential side street leading out of a business street and others of a similar nature along the edges of districts. However, most cities have preferred to accomplish the same result by appropriate clauses in the ordinance, as described below.

One further alternative method may be mentioned: district boundary lines might be drawn much as in the original New York City zoning ordinance, either in streets or along their side lines, with rules applying zoning provisions, including transition zoning, to the property abutting on such streets. This method also is found cumbersome in practice. Such maps prove to be difficult for the average person to read and should be resorted to only if no simpler method is found.

Legal Aspects

Usually the simplest and most direct way to bring about the benefits of transition zoning is to insert clauses in the zoning ordinance itself, defining what may or may not be done on one side of the zoning line or the other. The legality of such methods, already in effect in about two fifths of all zoned cities, undoubtedly rests squarely on the legal principle of treating property similarly situated alike, since the zoning line itself, with the differentiation it sets up, constitutes a vital factor in determining similarity of situation. Speaking broadly, every lot in a business district which is adjacent to a residence district, for example, is situated similarly to every other such lot and therefore appropriately zoned the same, at least in so far as transition zoning features are concerned. Conversely, property dissimilarly situated may be regulated by zoning differ-

ently, and lots in a business district not adjacent to a residence district are properly to be deemed dissimilarly situated from lots in the same business district but adjacent to a residence district, and thus are properly regulated differently in regard to matters of transition zoning. In order to zone similarly situated property alike it is not necessary to place it all in the same district, but simply to have rules applying uniformly to such property as is in fact similarly situated in respect to the circumstances covered by the particular rule.

Alfred Bettman, Esq., has put the matter very succinctly:

> Zoning, of course, finds its practical and legal justification in that it is regulation by districts. The defining of the districts must be reasonable, that is, determined by principles. There can, in the nature of things, be no dogmatic or uniform principle governing the size of the districts. At the one extreme, the individual lot may not be chosen as a district, for that would be regulation by something less or other than districts. At the other extreme, the whole city or region is something more or other than a district. The extent to which the zoned territory may or should be divided is, from the legal standpoint, and like all other legal problems, a matter of degree, dependent on facts, circumstances, situations, all the factors of zoning and planning principles.
>
> Zoning statutes, upon practical, political, and constitutional grounds, generally specify that, within any particular district, the regulations shall operate uniformly on all property. As in the case of any other type of requirement of uniformity, this must mean that the rules are uniform, and not that each rule necessarily applies to each piece of property. A requirement specifying certain regulations for lots within designated distances from schoolhouses may be a uniform rule, though it does not apply and cannot apply to lots which are not within the designated distance from a schoolhouse. A uniform rule may provide for and cover a variety of situations; and, within reasonable limits and always remembering that legality is a matter of degree and give-and-take, a rule satisfies the requirement of uniformity if it applies to each and every similar situation specified in the rule.
>
> As transition zoning is to apply to strips of territory along and at specified distances from district boundary lines designated on the map, such zoning may find its legal support in treating those strips as districts (even though not separately marked or colored on the maps) or as being in the special borderline situations which are specified in the regulations. The extent and location of the strips must, of course, be sustainable by planning principles.

There are a number of court cases in which the legality of transition zoning is incidentally involved, and in some of them such zoning may be

said to have been necessarily, though unconsciously, sustained. There are a number of passages in opinions which might furnish ammunition against such zoning. In only one case thus far discovered was the question expressly and consciously the main issue and decided as such. That was the case of Holden *v.* Connor, decided by the Supreme Court of Michigan in April, 1932 (reported in 241 Northwestern Reporter, 915; see page 145 herein for the text). The judgment in that case, by a divided court, was adverse to the zoning ordinance. The majority opinion did not assert any broad principle invalidating transition zoning in general, but restricted itself to the question whether the particular application of transition zoning in the case before it was or was not valid. The dissenting opinion of the Chief Justice, concurred in by two other judges, is a very able presentation of the arguments in support of transition zoning. It supports on several counts the transition zoning clause, which would have required a business building adjacent to a residential side street to observe the residential setback. Referring to alleged discrimination due to lack of uniformity in its application throughout the district, this opinion said:

> There may be classification if made on reasonable grounds and it will be sufficient if the ordinance applies in fair uniformity to all in the particular class. A particular corner might require larger setback than another corner and such classification, if reasonable, might be sustained.

We are indebted to Mr. Bettman for the following digest of this case:

> The case of Holden *v.* Connor was concerned with the validity of a side yard requirement in the zoning ordinance of the Village of Grosse Pointe, a high-grade residential suburb of Detroit. The property concerned was in a local business district. The village was zoned almost entirely residential except for a small narrow commercial district along a main highway and two small local business districts. The case arose out of the following provision:
>
> "On a corner lot there shall be a side yard along the side street lot line in all cases where such line is substantially the continuation, without intervening streets, of the street lot line of lots in an adjoining residence district, or of adjoining lots in a local business district on which a front yard is required herein. The width of such side yard shall be not less than ten feet, except that where the width of a corner lot of record at the time of passage of this ordinance is less than fifty feet, the width of the required side yard on that lot may be reduced to one-fifth of the width of such lot."

This would apply to plaintiff's lot but not to certain other corner lots in the same district because of the interposition of intervening streets. Plaintiff's corner lot, however, would not be the only corner lot affected, though the other corner lots which would come under said provisions were at the time fully occupied by existing buildings. As the court calculated, seven out of twelve corner lots in the district would be affected by the provision. While plaintiff's corner was unmistakably a main intersection and heavy-traffic corner, the neighboring properties were residential with a ten-foot setback.

The property owner argued that the setback was unnecessary as the existing pavement did not cover the whole width of the street and left ample space for light, air, access, etc. The dissenting opinion brushed away this contention on the ground that "zoning is rooted in a plan not for to-day but for the to-morrow."

The opinion then dealt with the contention that the restriction was solely for esthetic reasons. The judge held that esthetic reasons would not alone sustain an ordinance, but if present with other purposes do not invalidate it.

The opinion then proceeded to discuss the alleged discrimination as between the owners of corner lots and the owners of inside lots. The judge held that the needs of the street for public travel furnished a basis for such a discrimination even on side streets.

The opinion then dealt with the alleged discrimination due to lack of uniformity in its application throughout the district [as quoted above]. It seems that the same provision applied to all the four corners of which plaintiff's was one.

The majority opinion, representing the view of four of the judges, was short and, without very much analysis, held the classification to be unconstitutional because arbitrary, both the classification based on contiguity to a residence district without intervening street and the classification varying the side yard with the width of the corner lot of record at the enactment of the ordinance. The former was held to be bad because, so far as congestion is concerned, one kind of corner lot does not differ from another. The latter was held to be bad because it failed to establish a definite standard of side yards.

There followed a lengthy opinion of one judge, who numerically was one of the majority. His opinion simply declared zoning unconstitutional, and he did not at all discuss the particular question of transition zoning or the particular side-yard provisions which had created the case.

Local history is of interest in connection with this case. We are indebted to Mr. Tracy B. Augur for the following statement:

The provision which led to the Holden *v.* Connor case was added as an amendment to the Grosse Pointe zoning ordinance several years

after its original passage and was made following Mr. Holden's application for a building permit. The building plans as filed were in conformity with the existing zoning ordinance and the village was without adequate grounds for the refusal of a permit, but nevertheless refused to issue one until the matter of setbacks had been reconsidered. Although this procedure was somewhat irregular, it was not contested and does not appear to have influenced the final decision in the case.

The local business district from which this case arose comprised a strip of frontage on both sides of a thoroughfare cutting across the ends of long residential blocks. When the zoning ordinance was first considered, most of this frontage was held in large unsubdivided parcels and it was thought advisable to keep business buildings away from the corners sufficiently to protect existing residences facing the side streets. A 20-foot corner setback in the local business district was included in the first draft of the ordinance but, through a misunderstanding, was stricken from the text before final passage. The original ordinance, therefore, contained no setback requirements whatever and Mr. Holden's building plans were filed on that basis. There was then renewed agitation for a setback but, due to changed conditions in the interim, it was no longer possible to require a 20-foot corner setback, nor did it seem fair to require a uniform 10-foot setback, which would have borne heavily on some of the platted lots of narrow width. This resulted in the wording to which the court took exception. After the decision was handed down the village was compelled to grant the building permit but before any construction was started the ordinance was again amended to provide a uniform 10-foot setback for all corner lots in local business districts without variation in favor of narrow lots. The building permit was then rescinded and to date there has been no action to reopen the case.

Another case involving a transition zoning clause, but not so indicated in the opinion, is Hedgcock *v.* People *ex rel.* Reed (13 Pac. (2nd) 264), decided June 27, 1932.

The zoning ordinance of Denver in Section 20 (C) requires on blocks with a short side in a business "B" district and the remainder in a residence district a 15-foot building line on the long side of the block.

A building permit was refused for a store building at the southwest corner of Colfax Avenue and Adams Street, solely for violation of this provision, which would require it to be set back 15 feet from the sidewalk line of Adams Street. Colfax Avenue for many blocks east and west of Adams Street was and had been for many years a business street on which private residences were no longer being built. Property along Colfax Avenue in the vicinity of the intersection was developed with buildings near or quite out to the sidewalk line, and the southeast corner of the intersection had a gasoline station which came

within eight feet of the sidewalk line. Along Colfax Avenue, in both directions from the corner in question, the ordinance appears not to have been observed. On these facts the court found that the application of the 15-foot setback requirement to the proposed corner store building would be so unreasonable as to be invalid. There was no discussion of the question of the validity of transition zoning nor anything to show that the case was conceived by the court as involving the problem of transition zoning. (Digest by Alfred Bettman)

In a number of cases on the general subject of zoning, emphasis is placed on the need of uniformity throughout each district, but the situations actually before the Courts did not require rulings as to the limits of "classification made on reasonable grounds." Thus in Taylor *v.* Moore (154 Atl. 700), relating to Beaver, Pa., where districts were defined solely by frontage and uses were defined solely by reference to uses in other boroughs, it is held that neither is definite enough to insure uniformity. The zoning officer is presented with a power too unrestricted to assure that he will be discriminating. The court's dictum, "zoning ordinances must be uniform throughout each district," applied to this aspect only. The only matter actually decided was that the case should be reëntered as an appeal from the board of adjustment under the above rulings.

As stated by Mr. Bettman, in many other branches of statutory law decisions have established that "uniformity simply means uniformity of rule; it does not mean that the rule may not provide special standards for the various kinds of special situations that exist within the district or area. To be concrete, the principle of uniformity of the regulations within a zoning district does not mean that the regulations may not contain provisions for the border property different from the provisions for the non-border property. Any such interpretation of the requirement of uniformity would destroy a large part of all our zoning ordinances. For instance, front-yard standards which are defined by or varied by actual neighboring developments or developments along the block do not apply to other portions of the district which do not have such neighboring developments or developments along the block. Our zoning ordinances are filled with provisions which raise exactly the question raised about transition zoning. Uniformity of the rule is required, not uniformity of applicability of every part of the rule to every piece of land in the district."

Several cases under transition zoning have arisen where boards of

appeal have made decisions but, as stated below, these really fall outside the scope of this research, since in the first case cited below the board had the right it exercised, if it had any, under general provisions of the statute, and in the others it might be considered to have such powers without recourse to the special transition zoning provisions, although presumably acting under them. Thus, in Lucas *v.* Hamilton (259 Ill. App. 148) the court upheld the board of appeals in permitting an industry at a point which could be construed as within the distance, 125 feet from a residence district, within which it was otherwise prohibited by the ordinance.

The case, *In re* Block Holding Corpn. (253 N.Y.S. Supp. 321), relates to the second point.

> A property owner owned a plot extending for 200 feet on Jackson Boulevard. One hundred feet of this was in an apartment-house district and an apartment was erected thereon. The other 100 feet was in a residence "A" district. The desire was to extend the apartment over this residential 100 feet. The board of appeals allowed it, first, under the hardship clause, second, under the clause permitting an extension of the use into a more restricted district under such conditions as will safeguard the character of the more restricted district. The court overruled the board, holding that there was no hardship and that the power of extending existing uses was simply for small distances, for slight extensions, and does not include throwing a 100-foot lot into the less restricted district. The implication is that this sort of transition zoning may not be used for changing district boundaries but is permissible within limits of moderation. (Digest by Alfred Bettman)

The fact that this ordinance, unlike most transition zoning clauses cited in this research, did not specify the distance beyond the line over which the apartment use might extend produced greater freedom for the court's decision than if the ordinance had itself specified the limits of extension beyond the district line.

The converse of the preceding case is supplied by Roberge *v.* Zoning Board of East Providence (Sup. R. I. 1931, 157 Atl. 304):

> A market company had a building which it wished to extend over the border line into a residence district. The board of appeals granted the permit. The ordinance permitted the board to grant special exceptions where public convenience and welfare would be served and the appropriate use of neighboring property not injured, and to permit the extension of a building or use into a more restricted district but not more than 50 feet beyond the boundary line.

The court upheld the board, stating that the appropriate use of neighboring property would not be substantially injured. The case is distinct authority for this type of transition zoning, through decisions of a board of appeals. The particular conditions were probably of so local a nature that the case might not furnish good support for any general rule. (Digest by Alfred Bettman)

Other cases might be cited supporting or tending to oppose transition zoning. Since a rule or decision, otherwise invalid because discriminatory, — that is, non-uniform, — would certainly not become valid merely by reason of the fact of being made by a board of appeals, it follows that court decisions which, expressly or impliedly, uphold rulings of boards of appeal which are transition zoning in their nature, impliedly furnish legal support to transition zoning provisions in zoning ordinances. The omission of extensive citations of such decisions is due to the restriction of the subject matter of this research to ordinance provisions, with only passing reference to boards of appeal and their determinations.

In the future, the application of various transition zoning clauses will doubtless be ruled on from time to time. Fear has been expressed that transition "influence" might be extended so far that there would be little use of district boundaries except as data from which to measure transitional regulations, but such is seldom the case to-day and it appears unfair to prohibit any application at all of transition zoning simply because certain cities may conceivably overdo it. The courts will readily rectify such instances without upsetting its reasonable use elsewhere. It would seem that the rarity of court cases to date, although transition zoning is now in effect in over four hundred communities, is evidence that the legality of such zoning is generally accepted.

Arrangement and Application of Transition Zoning Clauses

In the following presentation, selections have been made from all the important transition zoning clauses of general applicability, modified forms have been interjected occasionally where a different wording from that already in use has seemed materially more effective, and the field has been rounded out by one or two model clauses covering points not at present found in effect anywhere. Each category is numbered throughout this research in **bold-face.** The source of each sample clause is indicated. Matter inserted by the author in quoted matter is enclosed in

brackets, [ ]. Wherever excerpts from ordinances are quoted in this research the greatest care has been taken to preserve the original punctuation and grammatical construction. In the complete compilation of cases (Part Two), wherever identical or substantially similar wording has been found in two or more cases only one example is presented verbatim, accompanied by a list of all the other places. Relatively minor but distinct variations have been preserved in the compilation, in Part Two, though not always referred to directly in the analysis herein presented. The date given for each ordinance is that of the most recent edition available in the Harvard University Library of the Schools of Landscape Architecture and City Planning. Therefore, there is no indication of the fact that transition zoning has been in effect in many of the cities where it is used from the time when they first adopted zoning itself.

No instances of transition zoning in which its application depends upon special permission by the board of appeals are included, as ordinarily boards would have such power in any event, without specific grant. Had such cases been included the total number of citations might have been nearly doubled.

Throughout the field of transition zoning, two main ways of applying it are observable: either property on the less restricted side of the zoning line is more stringently controlled than elsewhere in the same district, or else property on the more restricted side of the line has certain requirements relaxed as compared with the rest of its own district. While each of these methods in turn is found to be especially effective in certain cases, the former appears of more general utility in carrying out the spirit of the usual zoning plan. If requirements are relaxed, as for example in a single-family residence district, on the lot next to a business district a two-family house might be permitted, the building setback and even other yards might be reduced, and a greater height allowed. But these relaxations, while permitting the owner to occupy his lot more densely and thus perhaps partially to offset any financial loss from proximity to the business district, would often operate adversely on the occupants of the new building, who, already in a less favorable situation than those in the rest of the residence district, would find their light and air still further curtailed. The net result might easily be, as has in fact been testified to, that the occupants of the dwelling on the edge of the district might thus become so different in character from those of the rest of the district as to reduce materially the gains for which zoning was invoked.

It has seemed most useful to arrange the subject in this presentation along the familiar lines adopted for zoning provisions themselves: first, matters of use, then height, then area or required open space. Under *use* will be found, first, all provisions relaxing requirements near boundaries between two zoning districts, then successively those restricting property at the conjunction of residence districts with business districts, residence and business districts with industrial districts, and restricted with unrestricted districts. Few *height* provisions are presented but a great variety of *area* provisions. The latter are arranged with those relating to general area requirements first, those specifically relating to all yards next, then those relating solely to rear yards, to side yards, and finally to front yards or setbacks. The arrangement under each of these is varied to meet the needs of the prospective user rather than to conform to any set theoretical scheme.

Just how much of this detailed elaboration of the zoning idea should be put into effect in any community is a problem which can only be answered empirically as experience demonstrates its relative advantages and disadvantages under various circumstances. However, it would seem beneficial in almost any type of community to permit uses on the less restricted part of a lot intersected by a zoning boundary to extend not more than, say, 30 feet into the more restricted district (see category no. **1**, page 25); to require, on a corner lot in a business district adjacent to a residence district on the side street, that business uses be confined to buildings fronting on the business street (**8**), and probably also that business entrances be similarly restricted (**9**); to prohibit entrances to garages, except private garages, within, say, 50 feet of a residence district (**11**); to restrict specially the height of buildings along the boundary of a more restricted district (**20**); to require rear or side yards on lots adjacent to a boundary to equal in size those required on the more restricted side of the boundary (**22**); and, perhaps most important of all, to require front yards or setbacks on business frontage adjacent to residence frontage to equal the residential setback (**28**).

Experience under Transition Zoning

Experience in a considerable number of cities has already proved the value of certain of the transition clauses quoted below in effecting a more orderly and efficient development than could have been assured under zoning without such provisions. In fact the usefulness of transition zoning as an integral part of the zoning scheme is taken for granted in

most cities where it is in effect. From among the 337 communities where transition zoning clauses were found, 56 were selected for special inquiry. From 39 of these, replies were received; of this number 28 reported results of interest, comprising a total of 61 ordinance clauses.

Santa Barbara, Fort Wayne, Wichita, Portland, Me., Milwaukee, and Milwaukee County reported the great practical utility of a clause in the ordinance permitting a building on a lot intersected by a boundary line to extend a specified distance into the more restricted district (see **1**, page 25), even though, in Santa Barbara, "every effort was made to make the boundary lines of districts coincide with the existing boundaries of properties." In Portland, Me., this provision was found to be, in practice, too lenient without another transition zoning clause eliminating its application on a residential side street near a business street by radically restricting business on the side street (see under **9a**, below).

In Milwaukee "this provision has operated very successfully and has kept us out of a lot of 'deep water.' Invariably owners affected by this provision elect to expand the less restricted [use]. If this expansion privilege were not granted we might find ourselves confronted with the necessity of permitting residences on the rear end of exceptionally long business lots, one of the very things zoning is supposed to prevent." The photograph on the plate facing this page shows a Milwaukee instance in which the owner, being allowed to extend his apartment 50 feet back into the more restricted district, voluntarily provided a 50-foot yard on the street corner and a 39-foot rear yard, resulting in a much better development than had there been no leeway granted, in which case he "no doubt, would only have complied with the minimum requirements for setbacks and rear yards, erecting an additional [low] building on that portion of his lot which was over the district boundary." While this illustration does not demonstrate a legally enforceable advantage of the clause in question, it does illustrate the fact that under reasonable provisions all are likely to benefit in fact, the community as well as the owner.

In Kansas City and St. Paul, clauses (**5a**, **5c**) similar to that in the Chicago ordinance (**5**), which prevent the location of certain public buildings in the interior of residential areas, have been effective in preserving the residential character of the neighborhood. In several cases in St. Paul, schools and churches have been built complying with these provisions, on the edge of the residence district, thus avoiding the tendency otherwise "to cause a substantial drop in property values." The

Courtesy of Board of Public Land Commissioners, Milwaukee *Photograph by Milwaukee Commercial Photographers*

1. APARTMENT HOUSE PERMITTED TO EXTEND FIFTY FEET INTO MORE RESTRICTED DISTRICT, MILWAUKEE

photograph on the plate facing page 32 illustrates an application of this clause which prevented a convalescent home in the heart of a residence district.

The advantage of restricting entrances to stores and other business buildings on corner lots where the side street is mainly residential is reported by the Inspector of Buildings of Portland, Me. Here the zoning ordinance has been amended to meet a need that was keenly felt, so that no store may have an entrance on the side street more than 30 feet from the main business street (**9a**, illustrated on the plate facing page 32).

Cincinnati finds the provisions prohibiting filling stations, and garage windows unless of fixed wire glass, within 50 feet of a residence district (**11k, 11j**) "thoroughly accepted locally as protective measures beneficial to all property owners in the vicinity." The photographs on the plate facing page 40 illustrate these two situations.

Dayton justifies prohibition of entrances to garages and filling stations within 50 feet of any residence district (**11, 11k**) "on the grounds of safety, since a filling station or garage creates traffic across the sidewalk."

Referring to prohibition of garage or filling station entrances within 50 feet of a residence district in Covington and Lexington, Ky. (**11e**), Mr. L. Segoe states:

> These provisions were the ones most sought to abate what was looked upon as a contamination of residence districts. The general acceptance of the reasonableness of keeping these uses, and the increased fire hazard, the noise, the danger to pedestrians, and the like, which they engender, at some distance from the boundaries of residence districts, at least in the communities I am familiar with, may be responsible for the ready compliance therewith. There were quite a few instances in both cities, particularly in Lexington, when these provisions were brought into play. I may add that in the latter city the desire to prevent the indiscriminate placing of these uses accessory to the use of the automobile was the motivating force behind the zoning movement.

In Chicago the elaborate provisions restricting industry of various types near the edges of districts (**14d**) are considered to "have been effective in preventing uses of property which would be obnoxious to surrounding neighborhoods." One instance cited by the Corporation Counsel's office was that of a milk-distributing station prevented from locating within 125 feet of an apartment district. "There were very serious objections made by surrounding property owners, owing to the

noise that would be made in loading the milk bottles onto milk wagons and trucks and the early hour in the morning at which such milk trucks would leave the depot."

In Los Angeles County the provision requiring certain objectionable industries to be at least one-half mile from any restricted district (**16**) is stated to have "been responsible in a few instances for preventing serious injury to adjacent property, which was developed to residential uses; one was a fertilizer plant; another, an asphalt plant; while the most serious one was a glue factory."

A similar clause in Chicago (**16a**) was invoked when the City itself desired to erect an incinerator in a manufacturing district but less than the prescribed distance of 2000 feet from an apartment house district. When the City brought an appeal "very strenuous objections were made by the surrounding property owners," and it was denied.

In the matter of transition zoning provisions regulating area, in Covington and in Lexington, Ky., a clause requires a side yard on a lot in a business district which adjoins a residence district (**22e**). Mr. L. Segoe writes:

> As to the benefits resulting from such provisions, I can furnish you with a negative illustration.
>
> Some weeks ago I negotiated an agreement between two property owners in Norwood, O., to relieve a situation which arose because the Norwood zoning ordinance does not contain these transition provisions. The residential property, consisting of a small apartment house, which I represented, was located in a Residence "C" district alongside of a Business "B" district. The plot on which it was proposed to build a small store was a remnant (9 feet wide in front and 22 in the rear, and 75 feet deep) of a larger parcel occupied by several store buildings. The apartment house had only the minimum side-yard width, required by the zoning ordinance, on the side towards the business lot, or only one-half of the minimum distance prescribed between such buildings under normal conditions within the residence district. Several rooms of one of the apartments on the first floor would have been left with insufficient light and air by the placing of the 20-foot high blank wall of the store building on the common side lot line, making the same either unrentable or inviting a tenancy disturbing to the social stability of the apartment house and neighborhood. The combined efforts of the board of appeals, the city planning commission, and myself were brought into play to effect a trade between the two property owners, the owner of the apartment house conveying a few feet of frontage, besides paying something, for getting a few feet of additional side-yard width.

I do not think this case would have arisen at all had there been a provision in the ordinance requiring a side yard on the business lot adjacent to a residence district.

Kansas City, Mo., requires a rear yard on a corner lot in a business district wherever it abuts on a residence district (**24d**). The Frontispiece shows such a yard at the rear of a branch telephone exchange on a corner lot zoned for business, but backing up to a residence district.

A similar clause in Norfolk, Va., requiring a five-foot rear yard (**24e**) is stated as a result of experience with several cases to be "an excellent provision, as it always provides a space between the store and residence."

Of all transition zoning features the requirement for a front yard or setback in the business portion of a block partly residential is the one most frequently reported as valuable. Fourteen of the 29 cities reporting results under transition zoning mention this feature as beneficial.

St. Paul finds such a provision (**28**) extremely effective, "especially as to the location of stores on corners where the balance of the block was zoned for residential purposes." The plate facing page 4 shows a store built out to the street line before the zoning ordinance was adopted. In the six years which have elapsed "this store has changed its tenants at least four times. The property owners in the four blocks around it refuse to do business with it." On the same plate is also shown one of many stores set back to comply with the zoning ordinance, this particular one being on one of four business corners on a car-line street zoned in the main residential.

In Evansville, Ind., a similar clause (**28a**) has repeatedly prevented "the very objectionable conditions formerly so prevalent, namely, the corner lot store protruding in front of residences in the block." As evidence of the general acceptance of this provision in Evansville, in the seven years since it was adopted there have been no court cases and only three appeals for a variance, only one of which was granted. The plate facing page 68 shows two opposite business corners with stores set back, thus preserving the openness of the residential street beyond.

In Kansas City, Mo., are found numerous instances of the effective control of setbacks for neighborhood stores adjoining not only districts for separate dwellings, but also those for apartment houses (**28c**, see plate facing page 68).

In Knoxville, Tenn., the transition clause requiring setbacks in a business district occupying part of the same block with a residence district (**28d**) is considered a "life saver in many cases. . . . By standing

pat by this section we not only protect the property values in the neighborhood, we also assure much additional major street width, and . . . parking space for customers, which is a profitable result in these modern automobile days."

St. Paul, like many other cities, requires an apartment house in any district adjoining in the same block a single-family residence district to observe the setback required in the latter (**28h**). The plate facing this page illustrates well the benefit of this regulation of apartment house front yards to a single-house neighborhood.

Denver's requirement that where a small business district is entirely surrounded by residence districts there shall be a front yard (**28k**) is considered quite successful. Such business districts are usually in outlying sections "where land values are not high, and builders have not objected to providing the front yard required."

Cleveland had from 1922 to 1929 a setback ordinance, under which hundreds of stores in residential neighborhoods were set back appropriately. The zoning plan perpetuated these setback requirements in small business districts. The plate facing page 70 shows a store in a two-family neighborhood and another in an apartment house neighborhood, each set back under the setback ordinance to conform to the setback for near-by dwellings, this being now preserved by the zoning ordinance (**28n**).

Denver requires a setback in a business district only where on the long side of the block the major portion of the frontage is in a residence district (**30c**). While it has been obliged to give up enforcing this requirement in principal business districts by a recent court decision (see page 14), there has been no difficulty in enforcing these provisions in small business districts surrounded by residence districts. Local officials "are of the opinion after seven years' experience with the ordinance . . . that the enforcement of the front yard provisions in local business districts is of great value in protecting residence districts."

It is quite apparent from the comparatively large number of responses to the strictly limited number of inquiries sent out that a very much larger body of experience favorable to transition clauses in zoning could easily be brought together, but this has seemed unnecessary to demonstrate their general utility and beneficial effects whenever intelligently applied.

Courtesy of City Planning Board, St. Paul

28h. APARTMENT HOUSE REQUIRED TO SET BACK TO THE FRONT LINE OF ADJOINING SINGLE-FAMILY DWELLINGS, ST. PAUL

CHAPTER II

TRANSITION ZONING OF USE

INSTANCES of transition zoning related to use of property in which requirements in the more restricted district are relaxed will be considered first. One of the problems most frequently handled by such a provision comprises all cases where a district boundary line runs through a parcel in a single ownership, placing part of it in one district and part in another. In those cities, especially west of the thirteen original states, which are laid out for the most part in strictly gridiron fashion, with streets uniformly spaced and lots of uniform depth, such a provision may be inoperative, as the zoning line within blocks may readily be made to conform to lot lines. Even in irregularly planned eastern cities some zone plans have been so drawn, but in these cases there are apt to be attendant evils of special privilege as between neighboring lots, due to extra depth for example, that more than offset any benefit from such strict adherence to lot lines. The better practice, for many parts of the city at least, is to give the less restricted district a uniform depth of, say, 100 feet, or at least to make the district lines within blocks straight or approximately so and thus to portray on the zoning plan the true distribution of uses sought. This standard depth may coincide with the typical lot depth, but there are usually some lots of extra depth which extend back across the line into a more restricted district. Absolute adherence to this zoning line, prohibiting any business use, for example, from encroaching at all upon that portion of a lot in an adjacent residence district, entails hardship, which, in the case of small remnants at least, is unnecessary to secure the broad intent of the ordinance.

1. Lots in Two Districts: to conform to lesser restrictions for specified distance beyond boundary

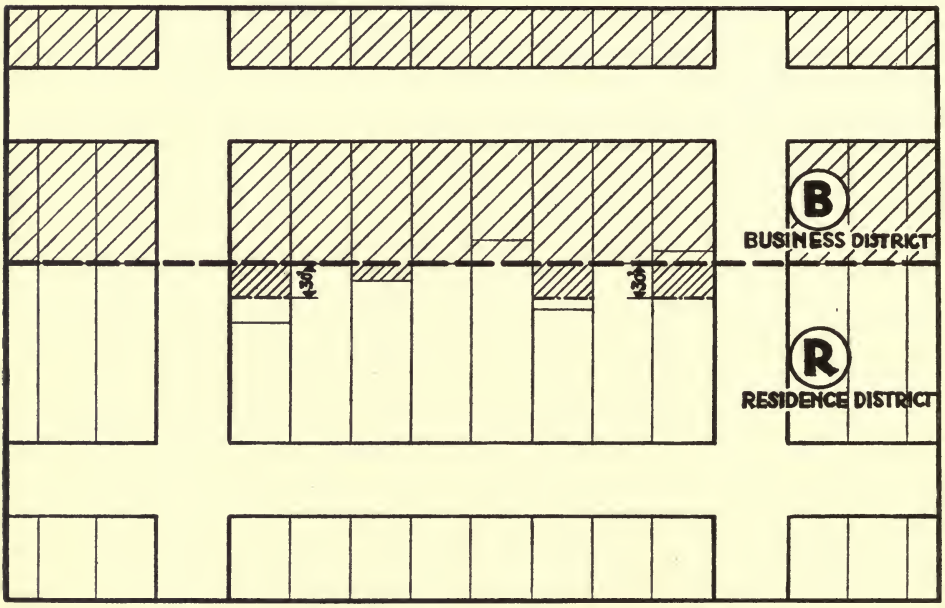
This situation has been provided for in 92 or one ninth of all the ordinances inspected, by allowing the less restricted use to extend over

the line (see plate facing page 20). The usual clause covering this is as follows:

MERIDEN, CONN. 1927.

SECTION 1.

(*c*) Where a district boundary line divides a lot in a single or joint ownership of record at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than thirty feet into the more restricted portion, provided the lot has frontage on a street in the less restricted district.



1. Lots in Two Districts: to conform to lesser restrictions for specified distance beyond boundary

The provision restricting this privilege to lots having street frontage in the less restricted district, while not inserted in all ordinances, has the merit of confining its application to those properties whose major use is business, for example, there being little hardship in holding the owner of an extra deep lot fronting on a street in a residence district, but extending back into a business district, strictly to the zoning line. The 30-foot or similar limitation is inserted to prevent abuse of the privilege, which would otherwise permit the less restricted use to be extended in some

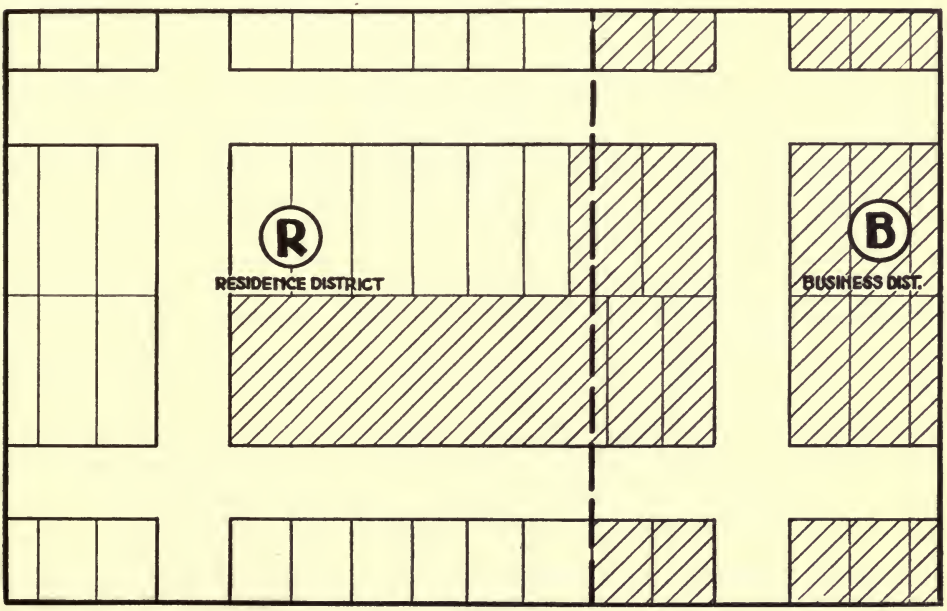
instances far into the more restricted district, thus materially disrupting the plan (see **2,** below).

Bloomfield, N. J., so words a similar clause as to allow any use permitted on either side of a boundary line to extend to the other side for a specified distance (**1a** : for text see Part Two ; for illustration see page 92).

One city restricts the privilege to a remnant not more than 25 feet wide (**1b**). Another stops the privilege at the center of the block (**1c**) ; others at a line 100 feet from bounding streets (**1d**). In Portland, Me., the effect of the entire provision is further safeguarded by an amendment to the zoning ordinance which eliminates its application on residential side streets around the corner from business streets by requiring entrances to business buildings to be on, or within 30 feet of, the main business street (see **9a,** below).

2. Lots in Two Districts: entire lot to conform to lesser restrictions

Several cities permit the entire area of all lots intersected by a boundary line to be used as though in the less restricted district, by the following clause:



2. Lots in Two Districts: entire lot to conform to lesser restrictions

Culver City, Cal. 1926.

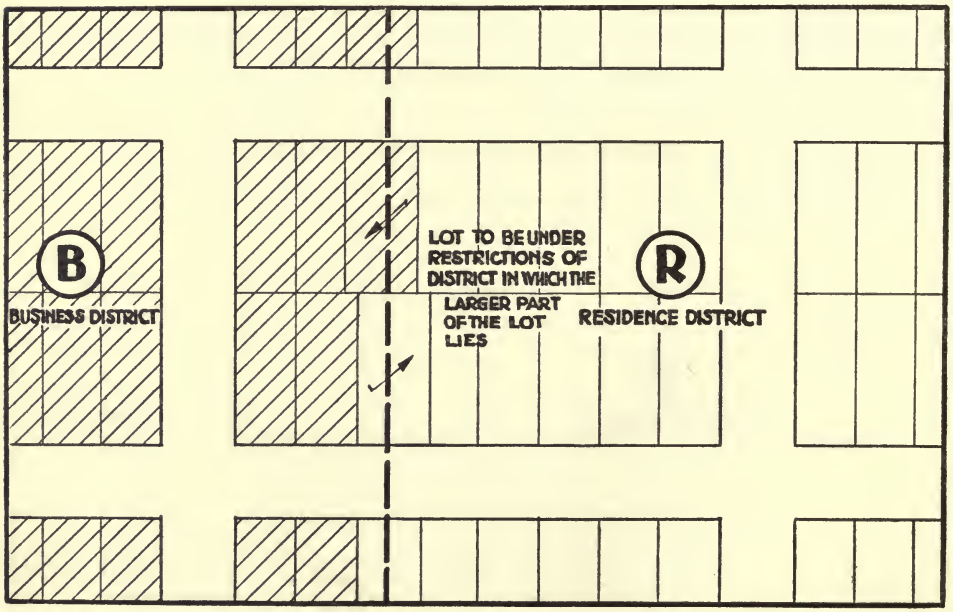
Section 7. Non-conforming Uses:

(*b*) Where a District Boundary Line, as shown on said Use District Map, divides a lot, as now existing or as hereafter subdivided, the use authorized on the least restricted portion of such lot shall be construed as extending to the entire lot.

One city restricts this permission to lots three quarters in the less restricted district (**2b,** illustrated on page 94).

3. Lots in Two Districts: to conform to restrictions of larger part

On the other hand, in two cities, while the ordinance extends the privilege to lots lying over one half in the less restricted district, it



3. Lots in Two Districts: to conform to restrictions of larger part

reverses the situation and actually restricts property, nominally in the less restricted district, to the provisions of the more restricted district if more than one half of the lot is in the latter, by the following clause:

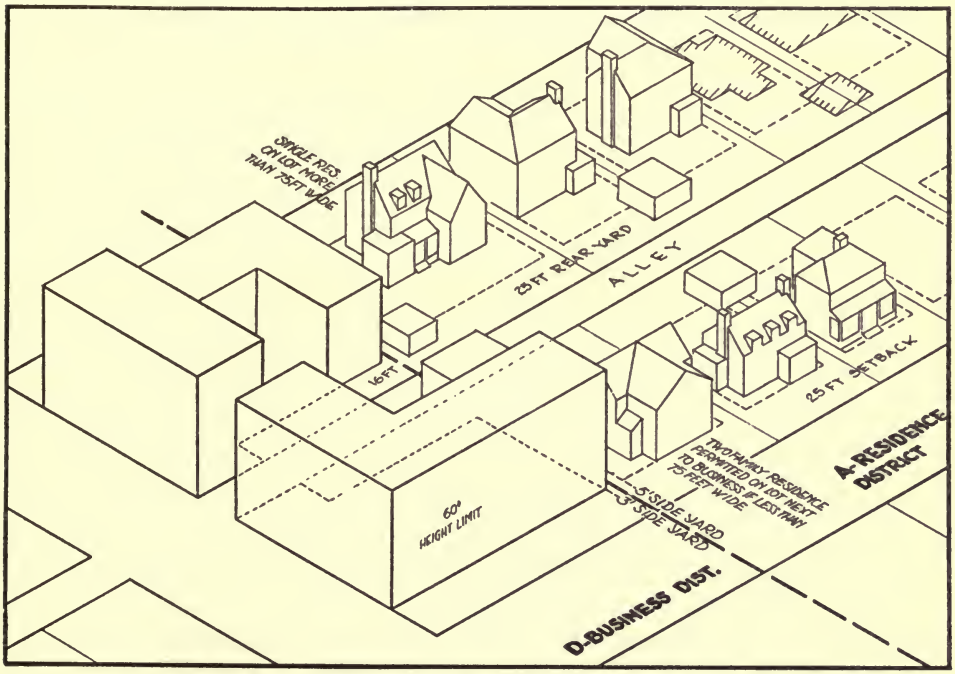
ATTICA, N. Y. 1928.

SECTION VI.

(*i*) Lots Intersected by Zone Boundaries: When any lot lies in more than one zone, the whole lot shall be deemed to lie in that zone in which the largest part lies.

4. RESIDENCE ADJOINING BUSINESS: DENSER RESIDENTIAL USES PERMITTED

A second category of provisions designed to mitigate the harshness of a sharp change in use at a zoning line, as for example from a single-family dwelling to a store, includes all cases where, in a residence district, certain types of use in addition to those allowed throughout the district are permitted on lots adjacent to business or industrial districts. In two cities two-family dwellings are allowed in single-family residence districts



4. Residence Adjoining Business: denser residential uses permitted

and apartments are allowed in two-family residence districts for a limited distance from a business district, provided they retain the normal yards required, as follows:

PUEBLO, COLO. 1931.

SECTION 10.

EXCEPTIONS

The foregoing requirements shall be subject to the following exceptions.

USE:

1. Any lot in a Residence "A" District not more than 75 feet in width which immediately adjoins a Business District may be used for a two-family dwelling, provided such dwelling conforms to the height and yard requirements of a Residence "A" District and to the lot area per family requirements of a Residence "B" District.

2. Any lot in a Residence "B" District not more than 75 feet in width which immediately adjoins a Business District may be used for a multiple dwelling, provided such dwelling conforms to the height and yard requirements of a Residence "B" District, and to the lot area per family requirements of a Residence "C" District.

A simple provision in University Heights, O., permits all two-family residence district uses on any lot in a single-family residence district adjacent to a business district (**4a**). Elsewhere two-family houses are allowed in single-family residence districts and apartments in two-family residence districts on any lot the side of which adjoins a business district (**4b**), or for a distance of not more than 60 feet on such a lot (**4c**, illustrated on page 96).

This planning for a buffer between low intensity residence areas and more intense or business districts has obvious merits, among them being the fact that it lifts a barrier to the owner's recouping part of the loss from proximity to the business district through rents on denser occupancy than would otherwise be allowed; but it would seem to have definite demerits in that it introduces a narrow fringe of occupancy of inferior type throughout the city wherever single-family residence districts abut on business. It would seem that in most cities it would be better not to deal with this phase by means of clauses in the ordinance but to draw small districts on the zoning map, including in them only those areas where such a relaxation of requirements would be beneficial, as is now done in Los Angeles County zoning.

In two Oregon cities, where the practice was at the time common to erect first a garage on the rear of a lot and live in it until a permanent house was erected, a special zoning district was established, in which such

a temporary dwelling is allowed if 400 feet from a single-family residence district, provided that if it is less than 200 feet from the boundary of the district it must receive local option approval (4d). However, this practice is reported to have so declined as to render this clause inoperative.

5. Residence Adjoining Business: special uses such as schools allowed here only

In another group of ordinances certain special types of use, such as schools and churches, which in most cities are allowed throughout all residence districts, are confined to lots adjacent to apartment and business districts, as follows:

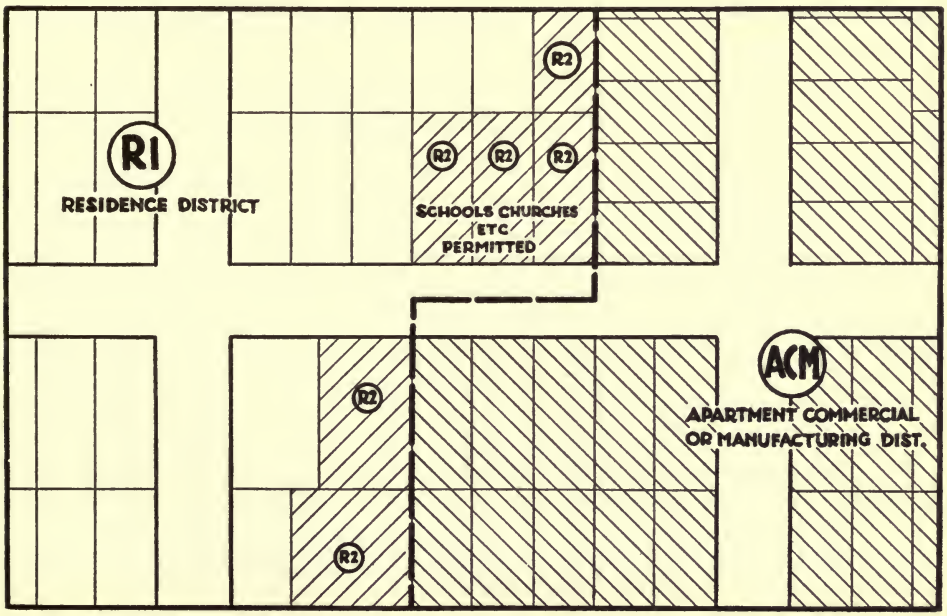
Chicago, Ill. 1927.

Section 5. R Use Limitations.

In a Residence district no building shall be erected or used and no building shall be erected which is arranged, intended, or designed for an R2 use [schools, churches, etc.] unless such building or use is located —

. . . . . .

On premises adjoining or immediately across a street from an Apartment, Commercial or Manufacturing district; . . . .



5. Residence Adjoining Business: special uses such as schools allowed here only

In one case this provision is expanded to restrict thus also libraries, public parks, and railway stations (**5b**). In St. Paul, Minn., and in two other cities, public and institutional buildings are thus restricted in whole or in part (**5c, 5d,** see plate facing this page). In Parma, O., crematories in cemeteries in single-family residence districts may be built close to the line of a business district, though they must be kept 300 feet within the boundary of a cemetery on all other sides (**5e**). Dearborn, Mich., permits apartments and hotels in apartment house districts to have incidental shops and the like with exterior entrances and signs on the ground floor only if within 50 feet of a business district (**5f**), but does not permit one-story stores and the like in such blocks, where stores within apartment houses would be unobjectionable. The city has, however, had no actual experience under this clause.

While this method of confining schools, hospitals, and similar uses to multi-family residence districts or to narrow adjoining strips is a crude way of locating such buildings in the city plan, it would appear far better than to make no attempt at all to segregate them. Wherever an official city plan can be given sufficient authority to control, it should be the main reliance for determining the sites for public buildings of these types, but in most cities numerous private buildings, such as private schools and private hospitals, will not ordinarily be located on the official plan except through zoning.

Another application of this principle occurs in Culver City, Cal., where limitations on accessory buildings in residence districts are waived on the nearer half of any lot adjoining a non-residential district (**5g,** illustrated on page 98).

6. Residence Adjoining Business: automatic rezoning

Oakland, Cal., provides for the extension, on petition, of the provisions of commercial districts to certain adjacent lots in apartment house districts, and styles this sort of overlap "automatic rezoning." This ordinance confines it to a 75-foot width except that a lot for a single building of unrestricted width may be so privileged. It also withholds such "rezoning" until after the adjacent lot in the business district is used for business. The clause follows:

Oakland, Cal. 1931.

Section 30. Automatic Rezoning.

Any lot in Class "B" [multi-family dwelling] Zone that lies imme-

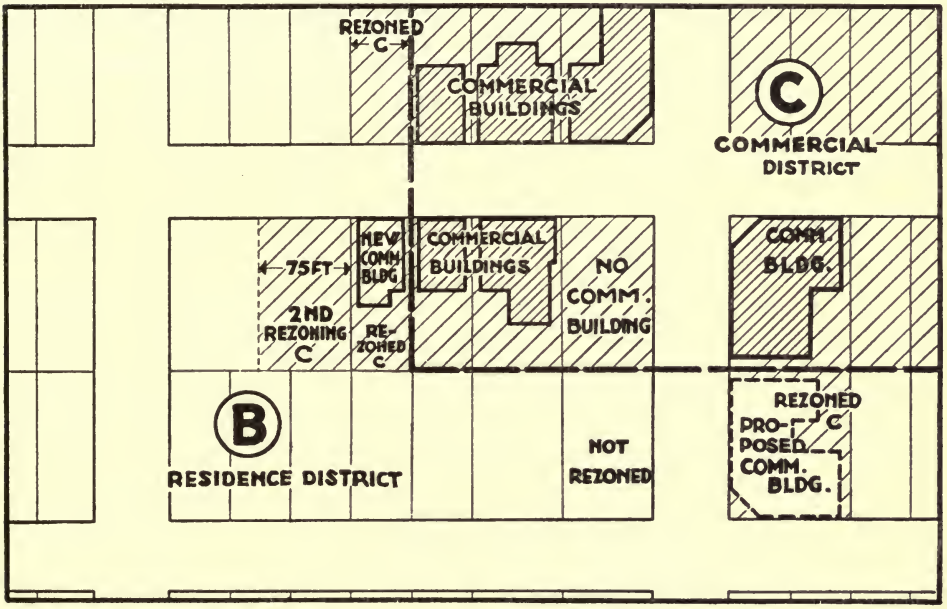
Courtesy of City Planning Board, St. Paul

5c. DWELLING IN A RESIDENCE DISTRICT PREVENTED FROM BEING MADE A CONVALESCENT HOME, ST. PAUL

Courtesy of Warren McDonald, Inspector of Buildings, Portland

9a. CORNER STORE NOT ALLOWED TO HAVE ENTRANCE ON A SIDE STREET MAINLY RESIDENTIAL MORE THAN THIRTY FEET FROM A BUSINESS STREET, PORTLAND, MAINE

diately adjacent to a lot in Class "C" [business] Zone shall be rezoned as a Class "C" lot whenever the Class "C" lot shall have been developed for commercial use in accordance with the provisions of this ordinance; provided, that for the purpose of this section, such rezoned lot shall have a width of not to exceed 75 feet, except where the owner thereof shall construct thereon a building of a greater size built immediately adjacent to the original Class "C" Zone lot, in which case any such rezoned lot shall be of such width as may be required for such building.



6. Residence Adjoining Business: automatic rezoning

Such "automatic" extension of business uses, which may ultimately travel throughout any block any part of which is originally zoned commercial, seems unnecessarily liberal for the usual case and quite likely to result in material distortion of the intended zoning. Experience under this clause supports this view; and it is stated to be the present intention to rescind it in Oakland.

A special application of "automatic rezoning" occurs in Riverside, Cal., where "church districts" distinct from residence districts are established by the ordinance with residence uses excluded. If after a lot is

once used for church purposes it ceases to be so used, it becomes a part of the residence or other district surrounding the church district (**6a**).

7. Business Adjoining Less Restricted District: certain additional uses permitted

Occasionally some special situation arising apparently only once in a city is dealt with under the guise of transition zoning, thus saving the necessity of setting up a separate class of district to take care of the specific needs of the peculiar location. Note the following, which allows several listed light industries in a certain area zoned as commercial but adjacent to an industrial district:

Wichita, Kan. 1929.

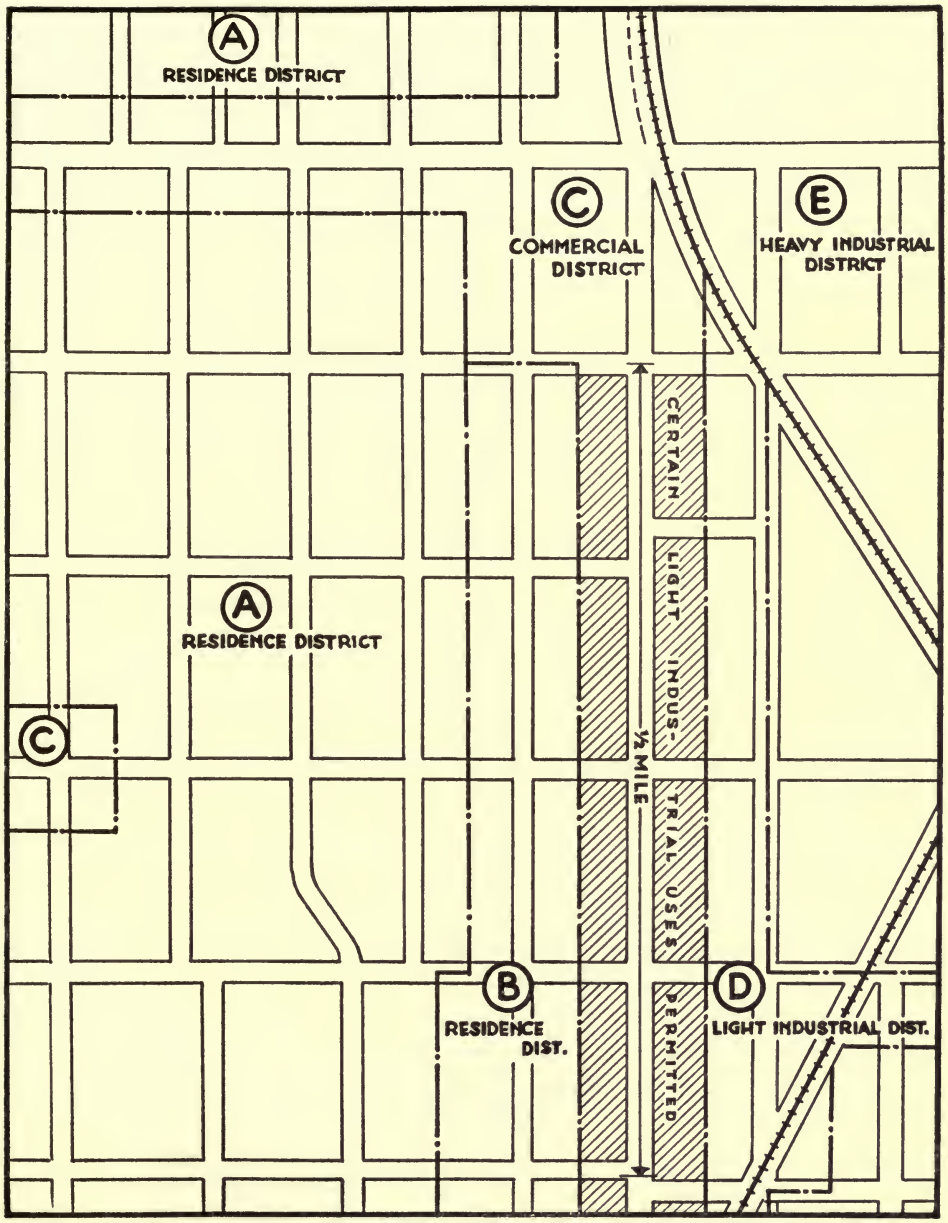
Section 5.

"C" Commercial District.

21. In any "C" Use District extending continuously for a half mile or more and lying immediately adjacent to a "D" or "E" Use District on one side and to a "B" Use District on the other side, lumber yards, bakeries, laundries, dyeing and cleaning works, and employing not more than twenty-five persons on or off the premises, shall be permitted to be installed and operated. (Repealed, 1932)

Since this part of this report was first written, the Wichita zoning ordinance has been amended (July 25, 1932) to provide an additional type of district and the foregoing clause has been repealed. The new local business districts now exclude light industry under all circumstances and commercial districts permit it without any of the former limitations of a transitional character. This is in accord with prevailing practice elsewhere, and appears more effective in producing the desired result than the more arbitrary transition clause quoted above, but the latter is retained herein as illustrative of special methods adapted to peculiar circumstances.

In Spokane, Wash., where a local business district adjoins mainly one- and two-family residence districts, apartments are excluded from it, but where a local business district adjoins an apartment house district on two or more sides, apartment houses are permitted in it (**7a**). By this expedient in the ordinance the necessity of setting up a separate class of local business district is avoided.

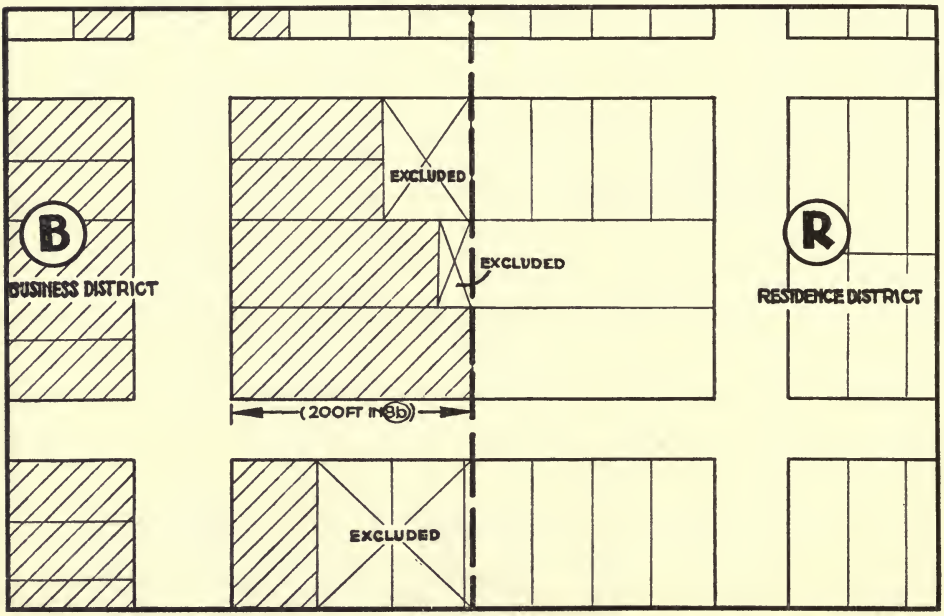


7. Business Adjoining Less Restricted District: certain additional uses permitted

In the particular case this method may fit the needs accurately, but as a rule such rough and ready methods will be found to create inequitable situations either at the outset or at some time in the future when the ordinance or the maps are amended. A similar provision was considered practicable in the (as yet unadopted) zoning scheme for Augusta, Me., but in other cities studies have revealed that only a portion of the local business districts would thus be correctly treated.

8. Business on Streets Mainly Residential: business permitted only on lots fronting on business street

Turning now to cases of transition zoning relating to use in which ordinance provisions impose extra requirements in the less restricted



8. Business on Streets Mainly Residential: business permitted only on lots fronting on business street

districts, we find that several cities have attacked directly the vitally important problem, common to nearly all residential areas, of the use of the frontage of the residential side street where it enters a business street. (The control of height and setback as relating to this typical case will be dealt with later.)

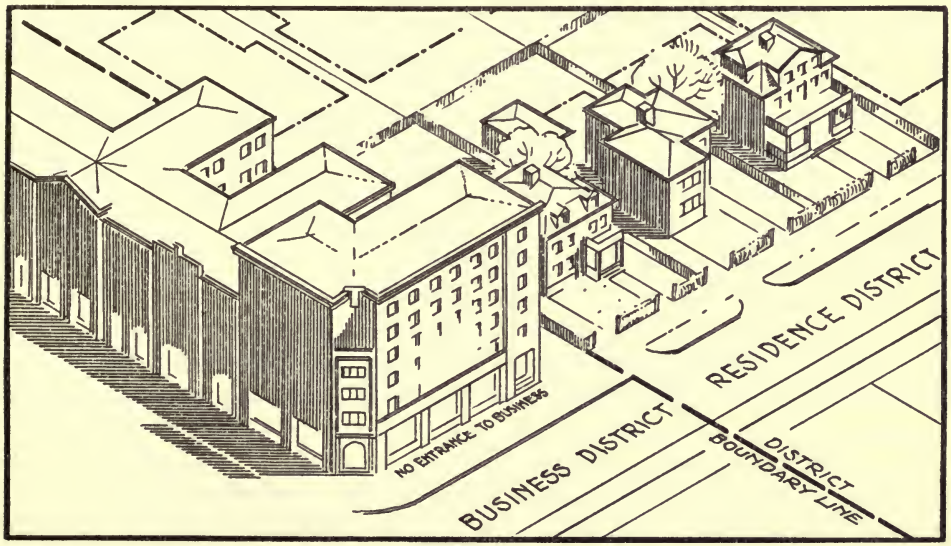
In this effort to produce orderly development along the edge of business districts adjacent to residence districts three municipalities have provided that, in a block with a strip of uniform width for business along one street, only property fronting on that street should be construed as in the business district (**8a, 8b, 8c**). Whether this restriction should be universal within a city or applied only in specific cases, perhaps by some map designation, may not be obvious in advance of local study. The following is a suitable clause for prohibiting business on lots on side streets:

MODEL CLAUSE.

Where a district boundary line within a block is drawn parallel to one of the less restricted sides of such block the provisions of the less restricted district shall apply only to lots fronting on such side.

9. BUSINESS ON STREETS MAINLY RESIDENTIAL: NO ENTRANCE TO BUSINESS FROM RESIDENTIAL STREET

In some cases it will be advantageous to restrict the business use further by allowing no store entrances on a residential side street. A carefully worded clause which accomplishes this without unnecessarily strait-jacketing development is the following:



9. Business on Streets Mainly Residential: no entrance to business from residence street

Harrison, N. Y. 1928 (As amended, 1931).

Section 12. Business A Districts and Business AA Districts "Use" Provisions

10. Where any Residence District is bounded by a portion of a Business District, then any side street extending through such Residence District into such Business District shall not be used for any business purpose, except as herein set forth. The business structure erected in said Business District shall face and open upon the street set aside for business purposes, except that show-windows in such business structure may be built and exposed upon said side-street within the area set aside as a part of such Business District and an entrance may be made at the corner of such business and residential streets, and all other entrances thereto must face on the business street, except that entrances may be made from such residential street to the upper stories of such business structure.

Portland, Me., by an amendment, similarly confines such a restriction to residential side streets entering business districts, but allows side doors within 30 feet of the main business street (**9a**, see plate facing page 32). Jersey City, N. J., has confined such restrictions to entrances facing the residence district (**9c**).

10. Business Adjoining Residence: if district small and isolated, business limited throughout

The general problem of proximity of business and residence districts has been dealt with by many cities, usually by requiring certain uses to be a specified distance from the residence district. Some provision of this sort would seem advantageous to adopt in nearly every city. In the extreme case the use of the entire area of small isolated business districts may be specially restricted beyond the restrictions of business districts in general. While this last might be said not to be transition zoning at all, but the virtual establishment of a separate class of district, it also resembles in its application typical transition zoning provisions elsewhere, with the exception that the width of the belt along the boundary covered by the special restrictions in this case may be considered, due to the small width of the isolated district, to be in fact more than one half the width of the district itself, and therefore the belts on two opposite sides overlap in the center and entirely cover the district.

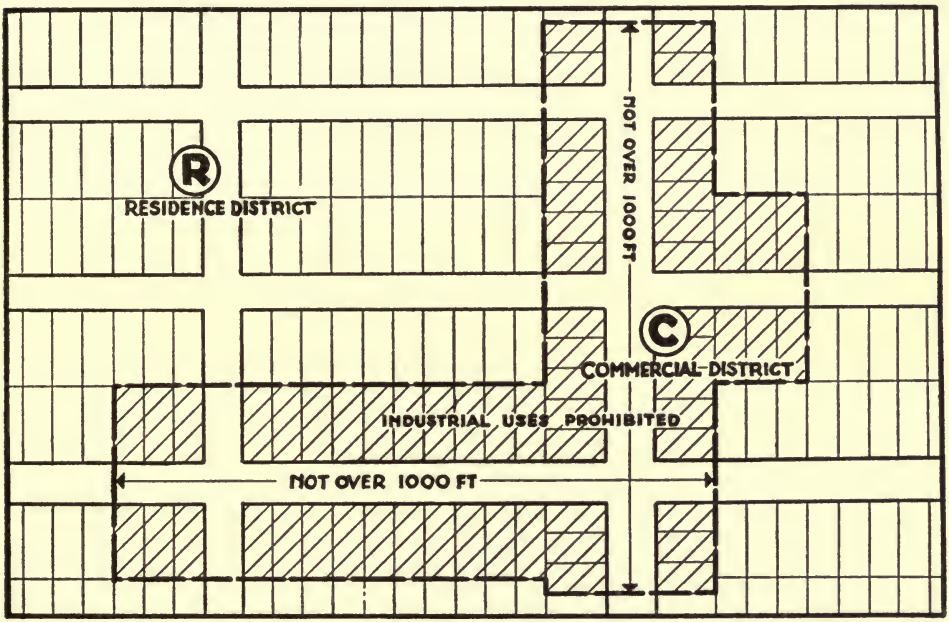
Elyria, O. 1929.

Section V.

Commercial District.

In a Commercial District no building, or premises, except as otherwise provided in this ordinance, shall be erected, or used, for any of the following specified trades, industries, or uses:

(25) . . . Where a business district is not over 1,000 feet in its greatest dimension, and is virtually surrounded by residence districts,



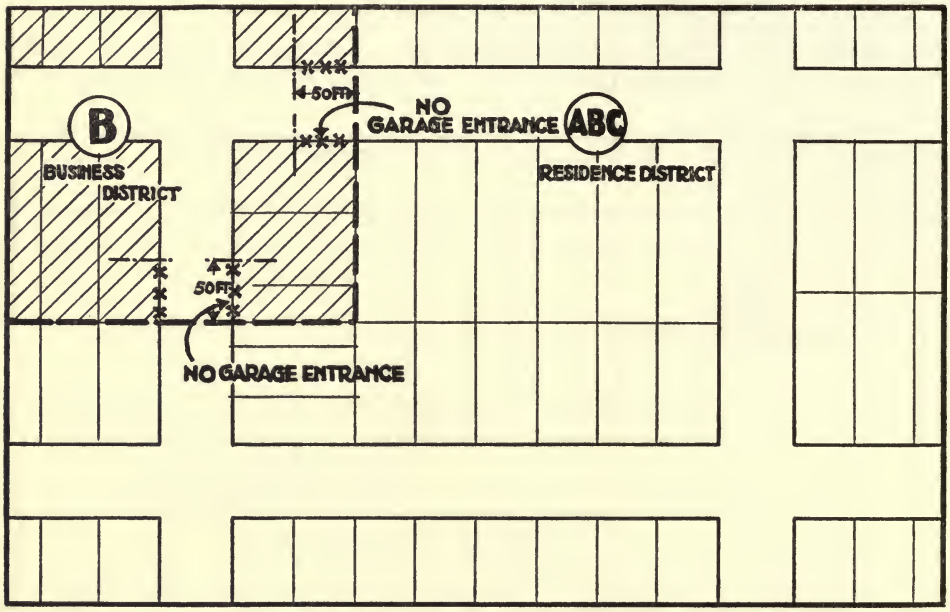
10. Business Adjoining Residence: if district small and isolated, business limited throughout

any industrial use shall be prohibited except for that which is incidental and necessary to the preparation of articles to be sold primarily at retail on the premises or to the performing of a service primarily for residents of the neighborhood.

In a similar clause, in Altoona, Pa., the maximum size of the small district affected by the special provision is fixed by reference to its area (**10a**).

11. Business Adjoining Residence: no garage near boundary

Turning now to the more typical cases, we find that the entrances of public garages in business districts are very frequently required to be located a certain number of feet, usually 50, from residence districts. In fact this is the commonest feature of transition zoning of any sort,



11. Business Adjoining Residence: no garage near boundary

being found in 126 ordinances or 14.7 per cent of all those inspected. In 114 of these, the wording approximates the following:

Roselle Park, N. J. 1921.

Section 7. Exceptions and Special Provisions.

(*b*) No public or private garage for more than five motor vehicles shall have an entrance or exit for motor vehicles within 50 feet of a Residence "A" "B" or "C" District.

The distance varies from 15 feet, in one case, to 200 feet, in a case applying to public garages exclusively. In some cities large garages only are restricted (**11b**). Buffalo, N. Y., covers in the same clause also retail ice stations, handling of live poultry, and dining cars (**11c**). In

Courtesy of City Planning Commission, Cincinnati

11j. GARAGE REQUIRED TO HAVE FIXED WIRE GLASS ON SIDE WINDOW BECAUSE LESS THAN FIFTY FEET FROM A RESIDENCE DISTRICT, CINCINNATI

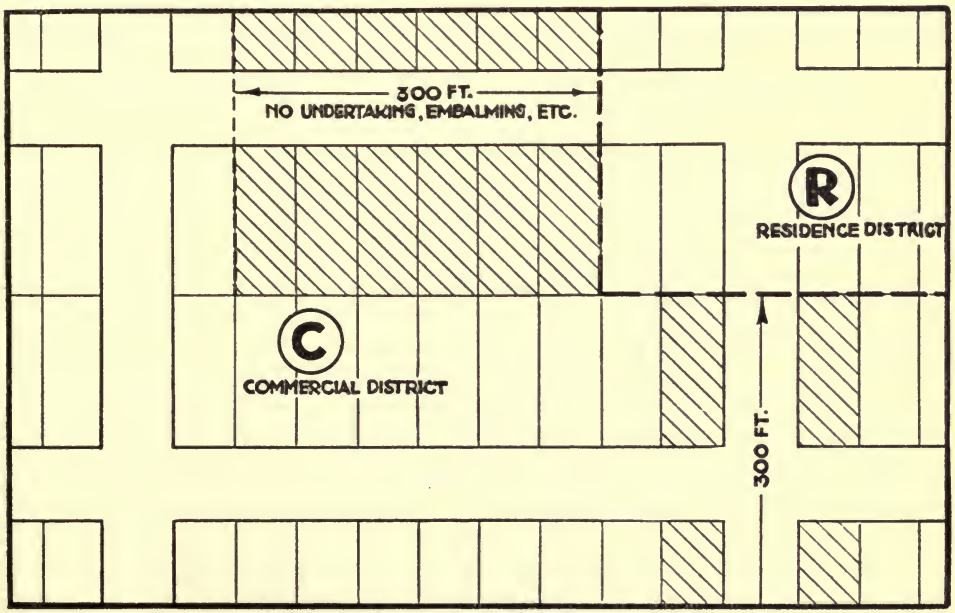
Courtesy of City Planning Commission, Cincinnati

11k. FILLING STATION KEPT FIFTY FEET FROM A RESIDENCE DISTRICT, CINCINNATI

two Kentucky cities, open-air parking is specifically restricted (**11e**). Two Virginia cities measure the 50-foot distance from the center of a street separating business from residence districts (**11g**). In three cities the restriction applies to any part of a public garage (**11h, 11i**). Cincinnati, O., places this restriction on such garages only as have openings not protected by fixed wire-glass (**11j**, see plate facing page 40). Five cities thus restrict only filling stations and the like (**11k**, see above-mentioned plate). Two cities require openings in garage walls to be located 16 feet from residence districts, and one city, 20 feet (**11m, 11n**). Two Kentucky cities prohibit garages from facing, or being within a specified distance of, other lots except lots in business or industrial districts (**11p**). Kenosha, Wis., prohibits garages in certain commercial districts where part of the frontage between two intersecting streets is residential (**11q**).

12. Business Adjoining Residence: no undertaking, dance hall, or other specified use near boundary

Many other business uses are, in one city or another, excluded from



12. Business Adjoining Residence: no undertaking, dance hall, or other specified use near boundary

the belt adjoining residence districts. Three cities permit funeral parlors in commercial districts only if they are 200 feet or 300 feet from residentially zoned property measured along the street:

Birmingham, Ala. 1926.

Section 11. Commercial Districts.

In a Commercial District, land may be used and buildings or structures may be erected, altered or used, for any purpose except the following uses, which are hereby prohibited:

15. Undertaking, embalming or cremating parlor or plant, if so located that any part of such structure is within three hundred (300) feet of any lot which is in a Residence District as established by this ordinance and which abuts upon any part of any street which adjoins the lot upon which such structure is situated.

Dearborn, Mich., allows cemeteries in industrial districts, provided no building is within 200 feet of a residence or business district (**12b**). In Beverly Hills, Cal., a 1932 ordinance requires rest rooms to be 20 feet from residence districts and to be screened from view (**12c**). Highland Park, Ill., prohibits dancing academies, lodge halls, and theaters within 200 feet of residence districts (**12d**); Wyckoff, N. J., bars dance halls from a 600-foot belt (**12e**).

13. Business Adjoining Residence: no advertising facing residence district

The following valuable regulation prohibiting advertising from being placed on walls facing adjacent residence districts was found in two midwest cities:

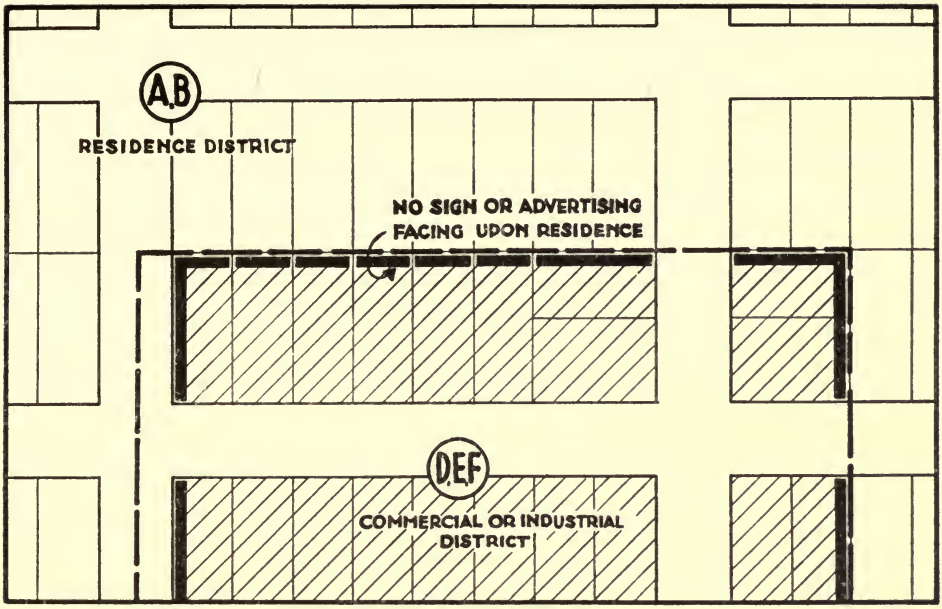
Arkansas City, Kan. 1931.

Section 16. Front Yards.

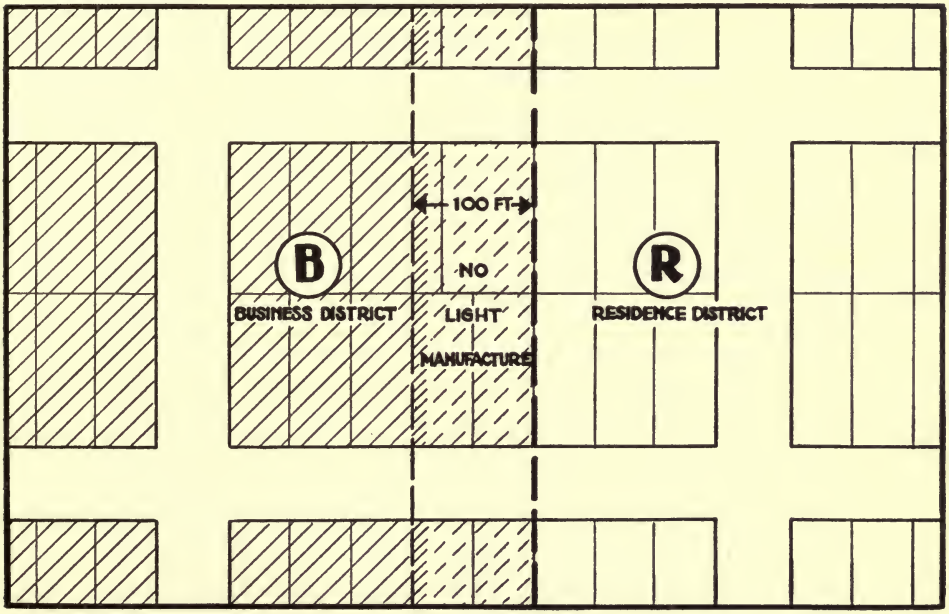
(*h*) Where any "A" District or any "B" District [residence] adjoins any "D," "E," or "F" District [business, etc.], no signs or advertising shall be placed on such sides or ends of buildings in any such "D," "E," or "F" District as may face directly upon any such "A" District immediately adjacent.

14. Business Adjoining Residence: no incidental light manufacturing near boundary

A number of cities provide a substantial protection to residence



13. Business Adjoining Residence: no advertising facing residence district



14. Business Adjoining Residence: no incidental light manufacturing near boundary

districts by prohibiting light manufacturing within 100 feet of such districts although allowing it elsewhere in business districts, as follows:

Olmsted Falls, O. 1928.

Section 17.—Manufacturing in Main Business Districts.

In a Main Business District, manufacturing not prohibited in an Industrial District, and not otherwise excepted by this ordinance, may be established and maintained subject to the following limitations:

(*c*) Such manufacturing processes shall not be located within one hundred (100) feet of any Residence District, as established by this ordinance.

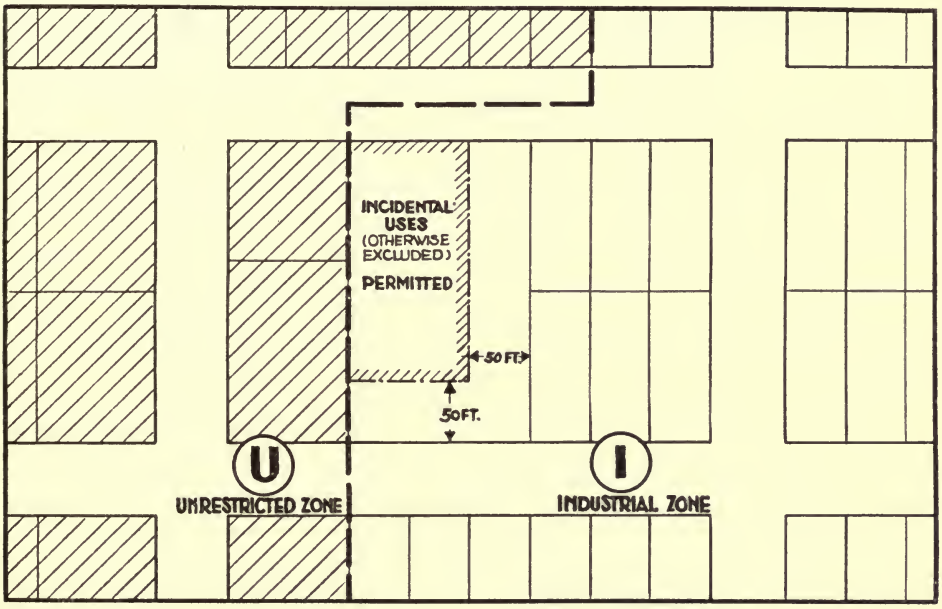
Paint shops, cleaning plants, laboratories, public laundries, and storage and manufacture of explosives and inflammables must be kept 50 feet away from a residence district, in two cities (**14c**), though this seems a rather meager protection.

In Chicago and two other cities very elaborate provisions have been worked out for a number of types of manufacturing and storage uses, with meticulous requirements for each (**14d, 14e, 14f**). Thus certain storage uses must be 50 feet from a residence district. Light manufacturing is prohibited from 8 P.M. to 6 A.M. within 125 feet of a residence district if it involves trucking or disturbing processes during such hours. No light manufacturing or similar use in a building any part of which is within 125 feet of a residence district may occupy more than one-half the total floor space, but this is subject to several additional provisos. Certain other manufacturing uses allowed elsewhere in commercial districts are entirely prohibited from the same 125-foot belt. Heavy manufacturing is much more stringently hedged in (as described below under **15c** and **16**). Whether such detailed requirements are warranted or not may depend to some extent on local circumstances. It would seem that in most cities not enough is known and there are insufficient standards as to the nuisance effect of each specific manufacturing operation on residence property a given number of feet away to separate these operations into such a large number of groups, each with different restrictions. Long before the benefits of such detailed classification would accrue, it would seem possible, and preferable in most cases, to restrict the actual conduct of industry, perhaps under a revocable license, so as to prevent injury to residence districts without seriously hampering practically any well-conducted industrial plant, barring only those which

by the nature of their processes must in the present state of the art unavoidably be definitely injurious, however well run.

15. Industry Adjoining More Restricted District: no semi-obnoxious industry near boundary

To protect both residence and business districts, industry of a heavier character is in some cities restricted in size and location under a transition zoning provision designed to obviate evil effects of such operation on



15. Industry Adjoining More Restricted District: no semi-obnoxious industry near boundary

neighboring property in more restricted districts. The purpose of the following clause is to allow certain heavy industrial operations, of the type ordinarily to be excluded from light or standard industrial districts, to be carried on in such districts when they are operated merely as an incident to a standard permitted industry, as for example a small drop forge in a large machine shop. Such situations are, however, so rare that the board of appeals might well be relied upon to handle them one by one, leaving the neighborhood normally entirely protected.

PORTLAND, ME. 1926.

INDUSTRIAL ZONES

SECTION 3. In an industrial zone —

(*a*) Use: No building shall be erected, altered or used for any of the following specified trades, industries or uses: [list] . . . . provided, however, that a building or use otherwise excluded but distinctly incidental and essential to a use of a building or plant with a series of buildings permitted in an industrial zone may be erected, altered and used if not more than ten per cent of the total floor area of the building or plant is to be so occupied, if not more than ten per cent of all the employees are to be engaged therein, if it is not located within fifty feet of any street line or lot line unless such line faces or adjoins property in an unrestricted zone, and if it is not injurious or detrimental to the neighborhood.

Occasionally one finds an example of transition zoning which appears on its face to be a board of appeals provision, but which, as in a West Hartford, Conn., clause, is transition zoning, used to restrict the power granted to the board to allow heavy industry under appropriate rules in industrial districts so that it may allow them only in those portions of such districts that are more than 200 feet from any residence district (**15a**).

In Vincennes, Ind., a simplified form of the Chicago method of zoning industries separates them into two classes, one to be 125 feet from residence districts, the other 400 feet (**15b**). In Chicago itself and in one other city certain uses are defined as those which under customary conditions emit fumes and the like affecting health, safety, comfort, and welfare of dwellers less than 400 feet away and which do not emit corrosive gases or fumes which injure commercial or manufacturing uses more than 100 feet away. The ordinance then prohibits such uses within 400 feet of a residence district or 125 feet of a commercial district (**15c**). (For heavy industries in Chicago see below under **16**.)

Several communities restrict one or two industries only in this manner. One New Jersey township requires forge shops in industrial districts to be 100 feet from any more restricted district (**15d**). Another prohibits incidental oil storage exceeding 75,000 gallons above ground within 50 feet of a district boundary (**15e**). In Buffalo, N. Y., oil storage, including a required dyke around it, must be 500 feet from a residence or business district (**15f**). Gas storage exceeding 2,500,000 cubic feet

is prohibited in industrial districts if within 1000 feet of a residence district in Wilmington, Del. (**15g**). Norfolk, Va., limits railway operation customarily creating smoke and the like within 300 feet of a residence or business district (**15h**). Tuckahoe, N. Y., prohibits stone crushers within 100 feet of a residence district (**15i**).

16. Unrestricted Adjoining Restricted District: no obnoxious industry near boundary

In the control of heavy industry we find transition zoning used over the widest of all belts. In fact, as used in Los Angeles County and in Chicago, these wide belts are so nearly in the nature of an intermediate class of district that it is at least a question whether more accurate results would not have been obtained by delimiting such districts, as other ordinary districts are, by lines on the zoning map instead of by establishing belts of arbitrary uniform width around each residence or other restricted district. To be sure, the theory on which such wide restricted belts are established may be cited to support their reasonableness: there is a critical distance beyond which an objectionable industrial use normally ceases to work any substantial injury, and it is this distance which the ordinance sets up as the width of the restricted belt. Thus in Los Angeles County obnoxious industries in "unlimited" districts must be at least one-half mile from any restricted district:

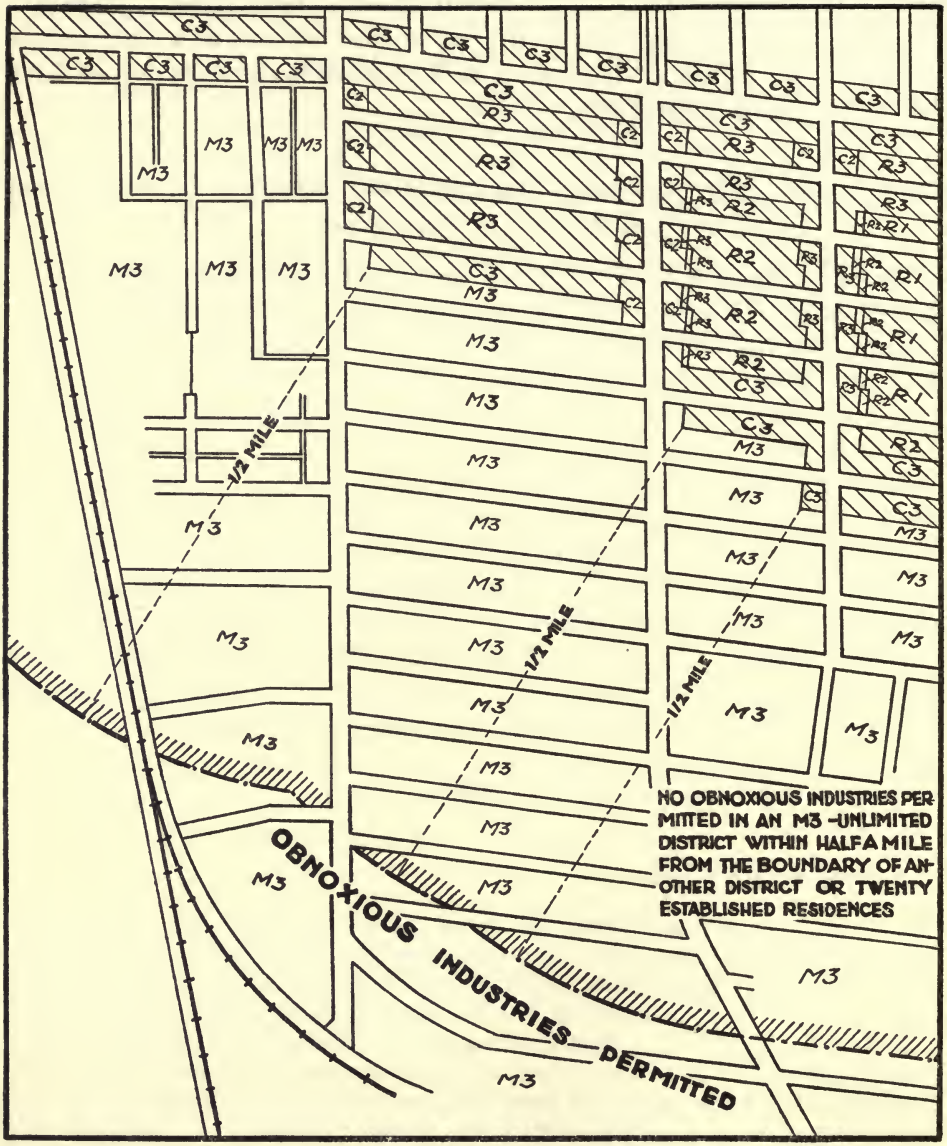
Los Angeles County, Cal. 1929.

Section 2

Zone M–3 (Unlimited)

(*c*) Any person, firm, or corporation desiring to obtain any permit provided for under the provisions of this section [for an obnoxious industry] shall make written application therefor to said board . . . and if such application is accompanied by an affidavit in writing to the effect that . . . such premises is [*sic*] not within a distance of one-half mile from any exterior boundary of any area included in any zone other than Zone M–3, or any residence district established by this ordinance or any other ordinance of said county . . . said permit shall be issued by said board as of course.

In Chicago and one other city certain offensive industries, "M3 uses," are listed and many others are lumped together and defined simply as those "which would be harmful by reason of dust" and the



16. Unrestricted Adjoining Restricted District: no obnoxious industry near boundary

like "to a use otherwise classified, at a distance of 2000 feet or more." None of these is permitted within 500 feet of a commercial district or 2000 feet of a residence district or "nearer to a Residence, Apartment, or Commercial District than a distance at which the M3 use would not from any cause be offensive or noxious to the occupants," which would seem to throw every such case into argument for the determination of fact (**16a**).

Other cities are more modest in their efforts in this direction. Fort Wayne, Ind., prohibits objectionable industries within 1000 feet of residence and business districts and within 500 feet of light industry districts (**16b**). Two Utah cities prohibit objectionable industries within 660 feet of a residence or commercial district (**16c**). The town of Winchester, which includes Winsted, Conn., allows its board of selectmen upon recommendation of the zoning commission to permit in industrial districts nuisance industries under appropriate safeguards only if they are more than 200 feet from a residence district (**16d**). Elizabeth, N. J., in its heavy industry districts requires blast furnaces to be at least 1000 feet from a more restricted district (**16e**).

17. Residence Adjoining Business: no stable near business district

The protection of one class of district from uses allowed in what are ordinarily thought of as more restricted districts must by the very nature of the case be rare. However, in one instance, where private stables permitted in residence districts are excluded from business districts, a transition zoning clause was adopted with the evident purpose of giving the business district still further protection against such a use:

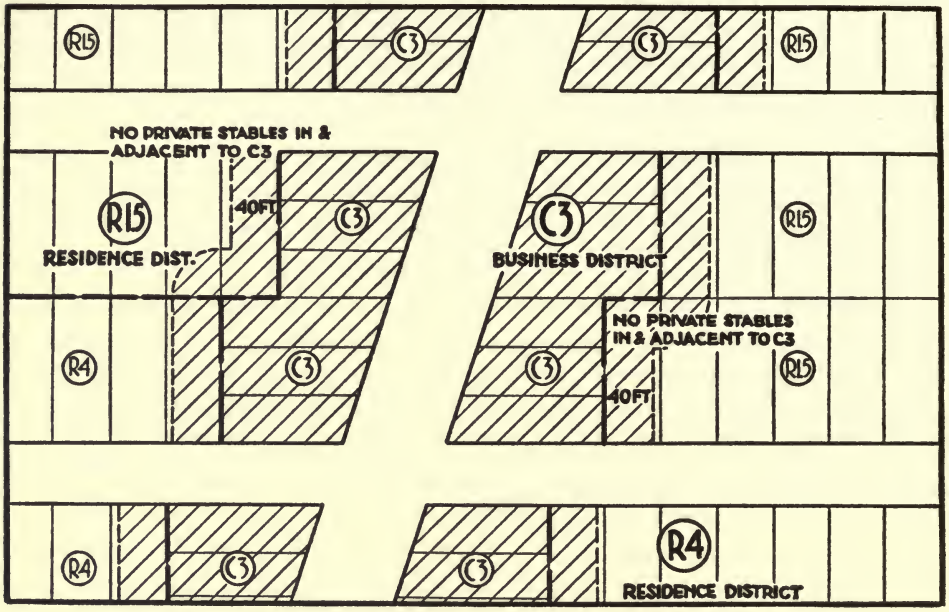
Beverly Hills, Cal. 1932.

Section 6. Zone C3—Business

. . . a private stable is expressly excluded from Zone C3 or territory within forty feet (40′) thereof.

That the horse is still a live issue is evidenced by the fact that this Beverly Hills, Cal., ordinance is dated 1932. It prohibits private stables

within business districts and within 40 feet of them, whether the adjacent district be industrial or residential.



17. Residence Adjoining Business: no stable near business district

CHAPTER III

TRANSITION ZONING OF HEIGHT

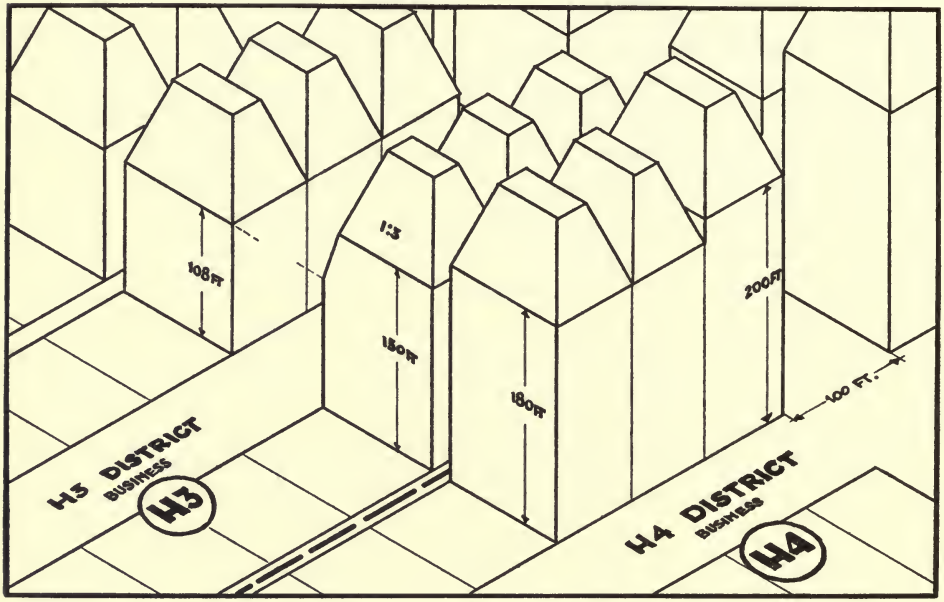
TRANSITION zoning to control heights of buildings along district boundary lines has seldom been adopted, only seven cities, or considerably less than one per cent of those whose zoning ordinances were inspected, utilizing it. Nevertheless the modification of heights so that the disparity between buildings on opposite sides of the zoning boundary line would be reduced would seem to be as logical as similar modifications of uses and of setbacks. One reason for this rarity is doubtless the fact that, except in the larger cities, the control of building heights by zoning is much less likely to be a primary factor in securing the civic pattern desired, more reliance being placed on yards and setbacks and, for residences at least, on the control of the building type by use designations, such as apartment or single-family.

Height control in an independent city or town under 25,000 in population becomes more or less academic except possibly in a single small central area. Then again the very fact that many cities have required sizable yards along the edges of districts has resulted in an actual avoidance of unduly high buildings immediately adjacent to the boundaries, so that the ordinary application of a step-down of height from one district to the next would in practice operate only in the area already set aside for yard space and thus have no actual effect. It should also be noted that until very recently stepping back of the upper stories of buildings, particularly on side or rear walls, has usually been considered an unwarrantable interference with architectural design and a cause of disproportionately large building costs. In short, like other more detailed forms of zoning, transition zoning methods have been adopted one by one only when a strong demand for each has arisen; and the demand for thus dealing with height has not as yet been very strong in most cities.

For purposes of analysis, the cases of transition height zoning may be divided, as were those relating to use, into those which relax requirements on the more restricted side of the line and those which increase requirements on the less restricted side.

18. Greater Height: permitted along boundary of less restricted district

In Indianapolis, Ind., a clause permits buildings in the third height district to exceed 108 feet in height provided they set back on all sides one foot for each three feet of extra height. The clause quoted herewith



18. Greater Height: permitted along boundary of less restricted district

permits buildings in this district to go up to 150 feet before setting back, on all sides except the street line, whenever such buildings back on a higher height district:

Indianapolis, Ind. 1929.

Section 11. Height Districts.

(*c*) In a class H3 district no building shall be erected to a height in excess of 108 feet, provided that back of the street or lot lines any portion of a building may be erected to a height in excess of 108 feet, provided such portion of such building is set back from all street and lot lines 1 foot for each 3 feet of such additional height, ... And provided further that if such building adjoins along its rear line an area

within a class H4 district any portion of such building erected back of the street line, may be erected to a height of 150 feet, provided such portion of such building is set back from the line of the street on which such building fronts 1 foot for each 3 feet of such height in excess of 108 feet.

Chicago provides setbacks above certain heights in several volume districts and allows buildings in such districts when adjacent to a less restricted district to be governed by the more liberal provisions of this adjacent district (**18a**). One New York city permits all buildings on a street forming a boundary between two height districts to go to the height permitted on the less restricted side, a rather generous provision, it would seem, and one as easily made effective through a rearrangement of zoning boundary lines as by this clause, though in this city some slight additional protection is afforded by requiring the board of appeals' consent (**18b**).

Scotia, N. Y., creates what is in effect another class of district by allowing buildings, in a community store district which adjoins an apartment house or business district, to go to greater heights than elsewhere (**18c**).

No city appears to permit an entire building adjoining a higher height district within the same block to go higher than is permitted in the rest of its district, and this appears to be wise, as such a clause would, in practice, in the typical case of residence adjoining business, allow a wall of higher residential buildings with a different type of occupancy from the rest all along the edge of the residence district. This is, of course, merely an extension to the matter of height of transition zoning for use, as discussed under category **4**, page 29. The same result is accomplished in Los Angeles County and occasionally elsewhere by actually delimiting narrow buffer districts of intermediate type on the zoning maps, as noted on page 9, wherever such a use appears appropriate, and not elsewhere.

19. Reduced Height: on frontage in same block as more restricted district

The most generally useful way to apply transition zoning to height control would seem to be by reducing the height of that part of a building which adjoins a district with a lower height limit. However, the only three cases found in which heights of buildings have been reduced along a district boundary have applied the reduced height to the entire adjacent building and, in fact, to all buildings fronting on the same street between

two intersecting streets. The following clause applies this method only between apartment house districts and two-family residence districts:

Scotia, N. Y. 1931.

Article V

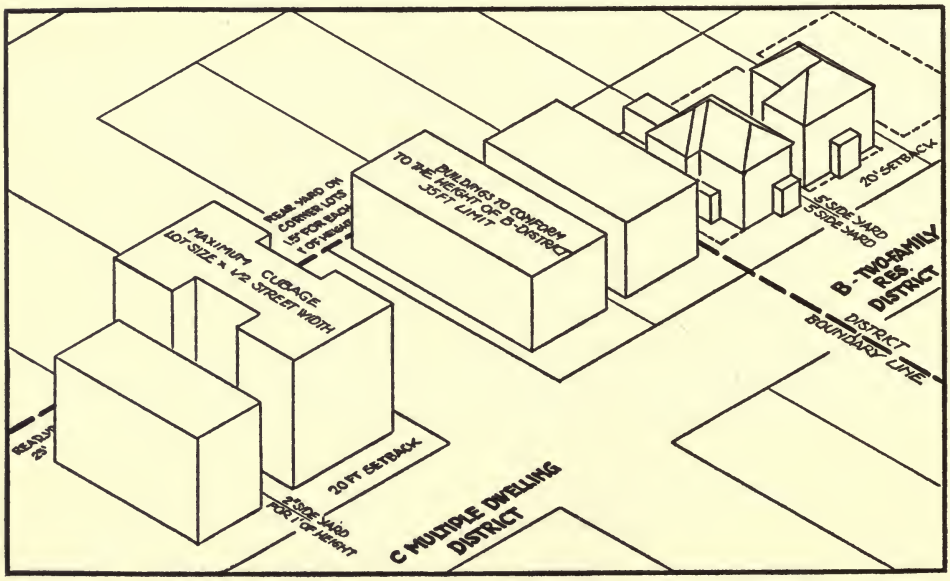
Regulations

"C" Multiple Dwelling District

Section 2. Height and Area Regulations

In the "C" Multiple Dwelling District the height and cubical contents of buildings, the minimum dimensions of yards and courts, and open spaces, shall be as follows:

Height: . . . Where part of the frontage on that side of the street between the two intersecting streets is located in the class "A" or "B" districts, the height regulations for such districts shall apply to buildings in the Multiple Dwelling district.



19. Reduced Height: on frontage in same block as more restricted district

In Savannah, Ga., this method is utilized to keep down the height in small business districts or narrow extensions of such districts which are more or less surrounded by a more restricted height district (**19a**).

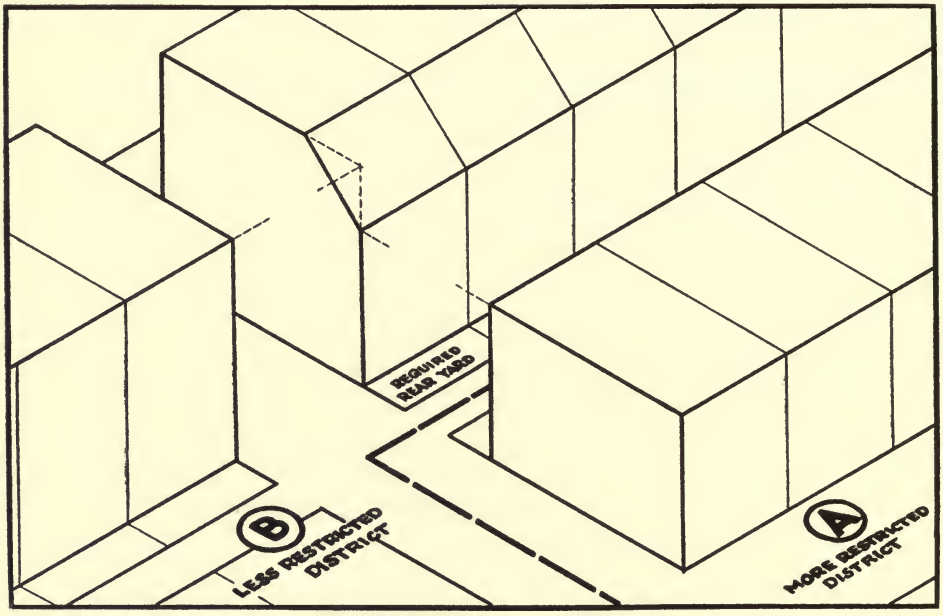
Spokane, Wash., applies this method to the whole area of certain small local business districts adjacent to single-family residence districts, but goes the limit and reduces such business buildings to one story in height (**19b**). The main purpose appears obvious, — it is on the whole meritorious, — namely, to prevent dwellings over stores. Such dwellings can never secure the same type of occupancy as the surrounding residences, nor can they ever be really satisfactory for family life. In fact, in many ways they are inferior to apartments in large apartment houses, a class of dwelling ordinarily excluded from neighborhoods of single residences.

20. Reduced Height: for walls adjoining more restricted district

Transition zoning might advantageously be applied to the control of height in a manner similar to that occasionally applied to front-yard setbacks by simply requiring a building in one height district adjacent to a lower height district in the same block to step down so as to keep below a sloping plane established between the planes fixed as the height limits of the two districts. If properly defined this will make universal a reasonable angle of light for all buildings in the more restricted district, since it assures all buildings adjacent to a less restricted district substantially the same amount of light as other buildings in the same district. For various reasons this sloping plane should be located within the less restricted height district, thus constituting an additional limitation of height and not a relaxation of normal zoning restrictions. One reason for not relaxing height limits is that in each of the more restricted districts they are of material assistance in establishing predominant building types. Moreover, the residence buildings, for example, adjoining business districts *per se* already labor under definite handicaps, which should not be increased by allowing both them and adjoining business buildings to go to the higher limit and thus create poorer light and air conditions at the very point where this adverse effect is greatest. Finally, it is scarcely practical from an operating point of view to have a small part of such a residence building raised to a height materially above the rest of it. (The question of allowing a whole building to go higher, because adjacent to a boundary, has been discussed on page 18.)

The sloping plane controlling height along a boundary may be made to spring from the horizontal plane at the height limit of the lower height district directly at the district line, or, what is undoubtedly far more

effective, to begin where such horizontal plane intersects the vertical plane of the nearest wall allowed in the less restricted district; that is, on the far side of any required yard or other open space along the line. If no yard is required, it would of course begin at the district line in either case. A plane with a slope steeper than one-to-one, or 45 degrees, would have scarcely enough beneficial effect under ordinary circumstances to be worth applying. A much flatter slope, on the other hand, would unduly interfere with construction for economical utilization of the lot. Such a rule



20. Reduced Height: for walls adjoining more restricted district

should be applied whether the lot in the less restricted district has its rear or its side line on the boundary of the more restricted district. It should also apply whether the boundary and the lot line coincide or not and might thus affect certain buildings not actually adjacent to the boundary. The following clause would cover the usual situations to be met:

MODEL CLAUSE.

In any district, where it adjoins a more restricted district without the intervention of a street, no part of a building shall exceed the following height limitations:

1. In case no yard is required for the building on the side adjoining the district boundary, (*a*) the height limit along the boundary shall be the same as in the more restricted district; (*b*) no part of the building shall exceed this height limit by more than one foot for each foot that such part is distant from the boundary.

2. In case such a yard is required, (*a*) the height limit along a line distant from the district boundary by an amount equal to the width of such yard plus any intervening alley shall be the same as in the more restricted district; (*b*) no part of the building shall exceed this height limit by more than one foot for each foot that such part is distant from such line.

CHAPTER IV

TRANSITION ZONING OF AREA

AREA zoning deals primarily with the sizes of open spaces appurtenant to buildings. In conjunction with height zoning it may control building volume in relation to lot area. In the early years of zoning much reliance was placed on controlling the ratio of open space and building area. Lately, however, attention has been devoted more to securing adequate size for each open space on the lot based on its particular relation to the building, oftentimes letting the percentage of open space result as it may. In transition zoning under the latter provisions, all yards on the less restricted side of a boundary line may be required to equal in size those on the more restricted side, or to equal one-half such size, or to have specified dimensions partially providing light and air for the neighboring lot; or such clauses may be applied to rear yards alone, or to side yards alone, or to front yards alone, in a great variety of ways.

21. Percentage of Lot Occupancy: reduced if adjoining residence district

The use of transition zoning in relation to percentage of lot occupancy was found in only one of all the ordinances inspected. The following clause is self-explanatory:

Buffalo, N. Y. 1930.

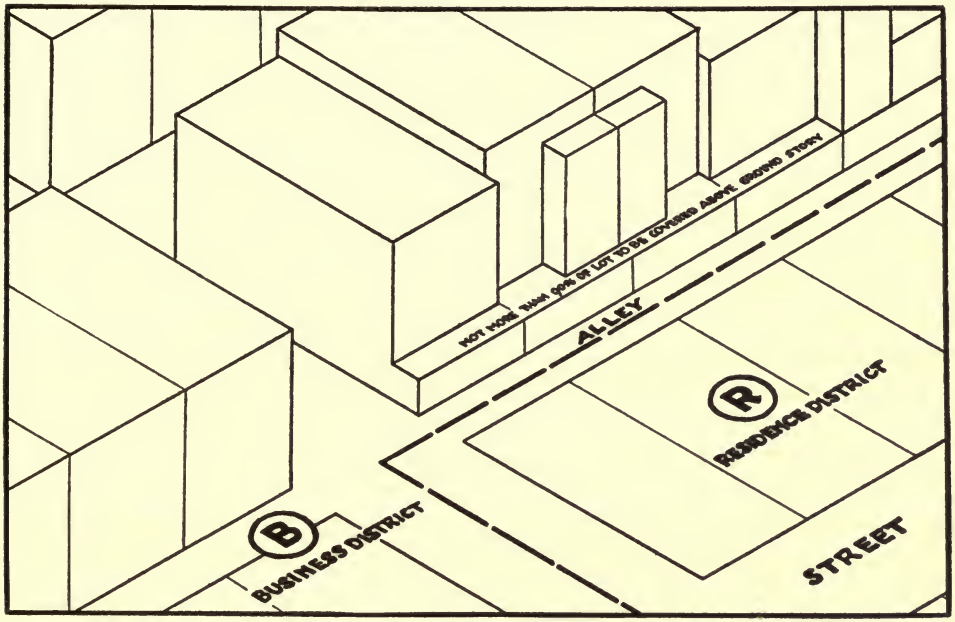
Section 17. Business District. Use Regulations.

. . . . . .

In a business district no building on a lot adjoining a residence district shall occupy above its ground story more than 90 per cent. of the area of the lot.

Such a crude method of securing beneficial results is obviously open to the theoretical disadvantage, at least, that the portion of the lot left

unoccupied as required might not abut upon the more restricted district and thus would not help it at all.



21. Percentage of Lot Occupancy: reduced if adjoining residence district

A second provision in the same city reduces the percentage of lot occupancy for dwellings on lots in the least restricted district adjacent to any more restricted district to the percentage permitted in such adjacent district (**21a**).

22. Yards: required on lots adjoining residence district

Following custom, open spaces on the lot are classified in this research as rear yards, side yards, courts, and front yards or setbacks. No examples of transition zoning controlling courts alone were found. Many cities do not cover the subject of courts in zoning ordinances at all, considering this a building code matter, since the minimum size of each type of court should be uniform for all buildings regardless of location in the city. Courts are, however, mentioned as one of the classes of open spaces controlled by transition zoning provisions relating to all open spaces in several of the cities noted below. A substantial number of cities thus

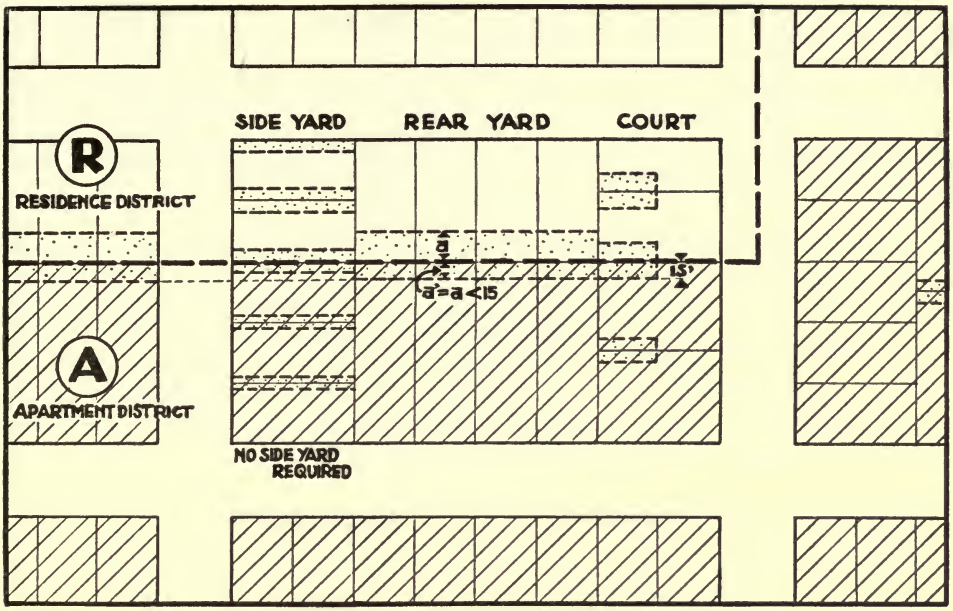
control all types of open spaces, or at least all except front yards or setbacks, by a single provision. It would seem that wherever possible this procedure is to be preferred, since unnecessary lengthening of zoning ordinances is always to be avoided, as tending to unnecessary argument and to the confusion of the ordinary citizen.

While zoning ordinances have applied beneficial open space requirements, usually in a rather limited way, to business districts, such provisions are used chiefly in residence districts, in order to secure adequate light and air about dwellings. The principal purpose of applying transition zoning to yard requirements is to secure for dwellings adjacent to business districts, for example, as much air and light as is received by other dwellings within the residence district. Occasionally the reverse method is applied, as noted below, and yard requirements are relaxed for dwellings adjacent to the boundary line, presumably on the theory that thus the economic handicap of being so located may be reduced. However, as a rule this would seem a mistake, since such dwellings already receive less air and light than others and are, therefore, already inferior even without the special proviso permitting the air and light to be still further reduced.

In six cities, wherever yards are required in less restricted districts they must be enlarged to equal those required across the zoning line. However, where no yard is otherwise required, this particular provision leaves the situation unadjusted (**22a**). A more inclusive wording, requiring yards to be the same size on both sides of the line, follows. Whether such a yard should start at the street level or at the second-story level is a moot point, owing to the fact that yards of this sort behind business buildings such as retail stores are often used for deliveries and storage and become collectors of rubbish, and thus may be more of a detriment to the neighboring dwelling than a completely roofed and walled-in area constituting an integral part of the store. In the latter case windows that open toward the residential lot might be prohibited, reliance being placed on skylights for ventilation.

Model Clause.

Along any boundary line between two classes of districts there shall be a yard or court on any lot in the less restricted district equal in depth or width to that required on the adjacent portion of any lot in the more restricted district.



22. Yards: required on lots adjoining residence district

In a considerable number of cities the increase in size required is reduced to one half the difference between the depths or widths of the yards required in the two adjacent districts, thus getting partial mitigation of the adverse effect of an adjacent store property (for example, **22b,** illustrated on page 116). In Worcester, Mass., the ordinance is so worded as to require a yard in less restricted districts where a lot abuts on a required side yard in a residence district (**22g**). In Lawrence, Kan., lots abutting either on side or rear yards are controlled in the same manner (**22h**).

Another method, invoked by a number of cities, has been simply to require a special yard three or five feet wide along the boundary of any commercial or industrial district where it adjoins a residence district (**22i**). In Emporia, Kan., the ordinance requires business and industrial buildings to be kept 25 feet from any residence district, though this would appear to differ very little from simply placing the district boundary line 25 feet farther over (**22k**). An example of reducing the requirements for yards in more restricted districts to equal those in adjoining districts is found in Sioux Falls, S. D. In this case it is confined to lots abutting on an alley (**22m**).

23. Rear Yards: required on lots adjoining residence district

In many zoning ordinances rear yards are not required in business or industrial districts, or at least not behind any buildings therein except dwellings. In all such cases it is desirable where lots adjoin residence districts that a rear yard be provided so as to reduce any deleterious effect the business or industrial building may have on the residential use. In most of the instances found this rear yard is given a special depth, usually somewhat less than the normal rear yard depth required in the adjoining residence district. The following clause sets this depth at ten feet, a modest amount but still sufficient to improve conditions in a near-by dwelling in a more restricted district very materially over those that would exist if no yard at all were required:

Louisville, Ky. 1931.

Section 15

Height and Area Regulations

"F" Commercial and "I" Light Industrial Districts

. . . . . .

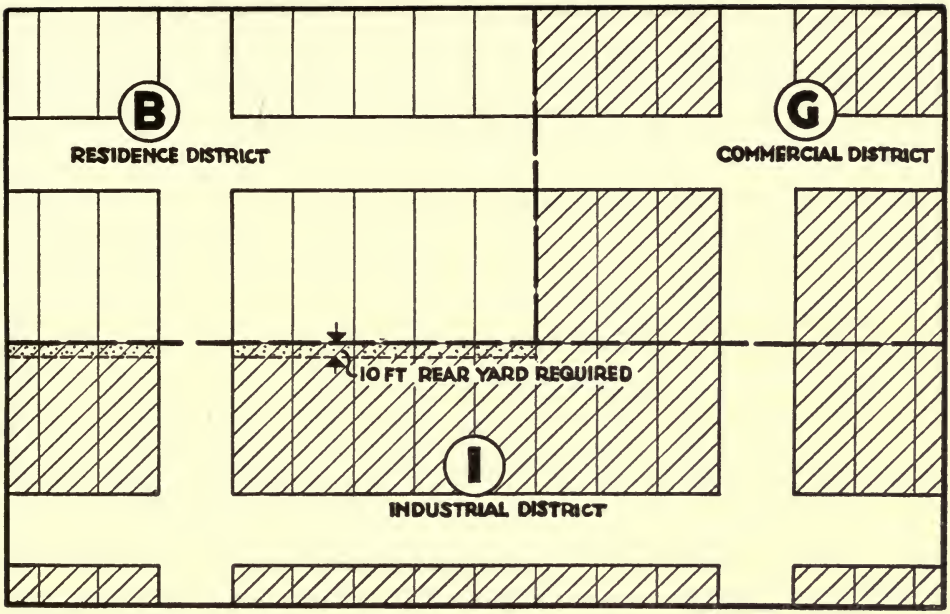
Rear Yard: . . .

In the "I" Industrial District no rear yard shall be required except where the "I" Industrial District abuts on a dwelling district in which case there shall be a rear yard of not less than ten (10) feet. [Similar provisions in "G" Commercial, and "J" and "K" Industrial Districts]

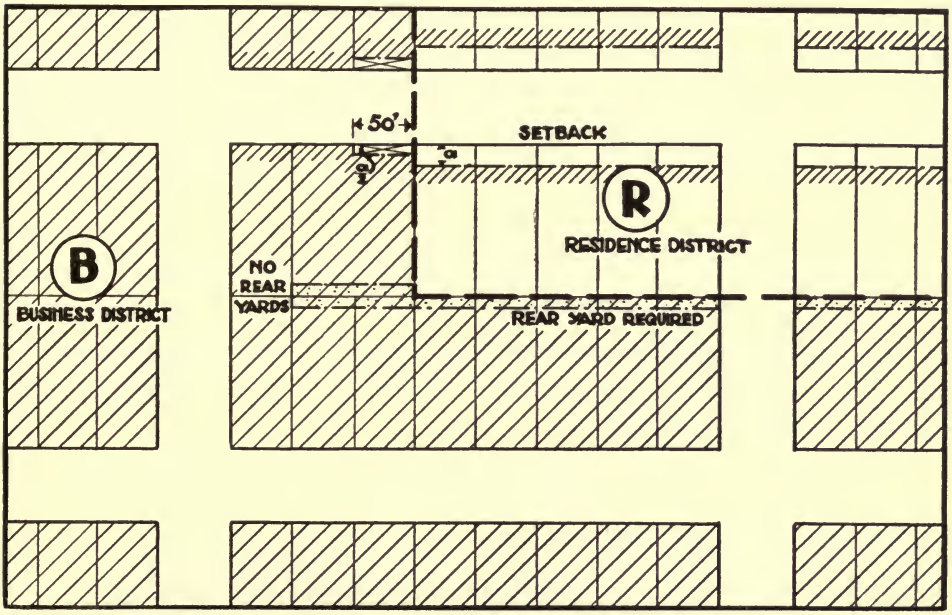
In other ordinances using a similar wording this figure varies from 8 up to 15 feet. Some cities specify a fixed percentage of the lot depth for this rear yard (**23b**). Others requiring rear yards for all dwellings use transition zoning only to require yards behind other buildings in business and industrial districts where adjacent to more restricted districts (**23c, 23e**). Two cities exclude the central section of the city from such rear yard requirements (**23f**).

24. Rear Yards: required on corner lots adjoining residence district

In certain cities which normally require rear yards in non-residential



23. Rear Yards: required on lots adjoining residence district



24. Rear Yards: required on corner lots adjoining residence district

31. Setback: on business lot adjoining residence to have special depth

districts on interior lots but not on corner lots, all corner lots adjacent to residence districts are required to have rear yards of a specified depth:

Ossining, Town of, N. Y. 1930.

Section 10

Rear Yards

(*a*) Requirements in All Districts.

. . . . . .

(*b*) Modifications and Exceptions.

(2) Within any "Business" District no rear yard is required on any corner lot, either with or without residence occupancy of the building, if said lot is 50 feet or less wide; except that if the rear line of the corner lot forms a boundary line of a "Residence" District a rear yard not less than 10 feet deep shall be provided on the corner lot.

In Glen Cove, N. Y., the area treated as a corner lot is defined as "within eighty feet of any street" (**24c**). Kansas City, Mo., exempts business lots less than 55 feet from the nearest street from providing a rear yard unless abutting on a residence district (**24d,** see Frontispiece). In Norfolk, Va., a rear yard is required on a corner lot only where it abuts on the side line of a lot in a residence district (**24e**). In Williamsport, Pa., accessory buildings on corner lots in any residence district must observe a five-foot yard adjacent to any more restricted residence district for a distance of 20 feet back from the setback line on the side street (**24f**).

25. Side Yards: to equal requirement in adjacent residence district

Many cities have adopted a provision requiring side yards in business and industrial districts adjacent to residence districts to conform to side yards in residence districts:

Mount Kisco, N. Y. 1928.

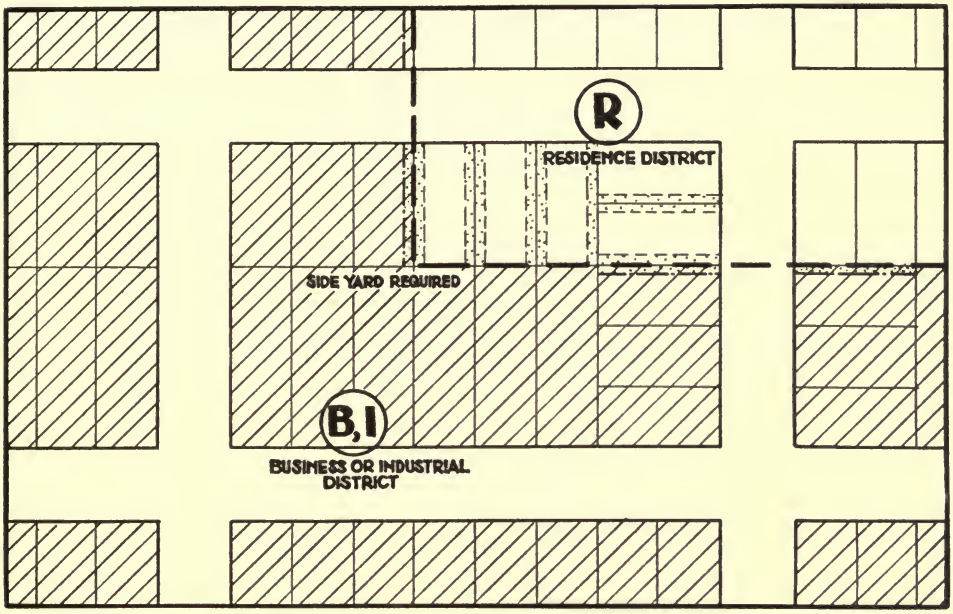
Section 14 — Side Yards

(*b*) Requirements in "Business" and "Industrial" Districts.

In "Business" and "Industrial" Districts, along any district boundary line between such districts and any "Residence" District a side yard shall be required which shall conform to the requirements

for a side yard on the "Residence" District side of the district boundary.

Westerville, O., applies such a provision to small business districts only (**25c**). Two cities use such a provision for apartment house districts



25. Side Yards: to equal requirement in adjacent residence district

adjoining other residence districts (**25f**). Memphis, Tenn., waives side yard requirements only where an entire half-block is in a commercial or industrial district (**25g**). In one city, such side yards are required to be only one-half as wide as those required in the adjoining more restricted district (**25i**).

26. Side Yards: to be of special width if adjoining residence district

As in the case of rear yards, a number of cities require side yards of special width along more restricted districts, but while in some of these cases the required yard is smaller than normal side yards in the more restricted district, in others the width is considerably greater than the normal. The following clause covers the case in simplest form:

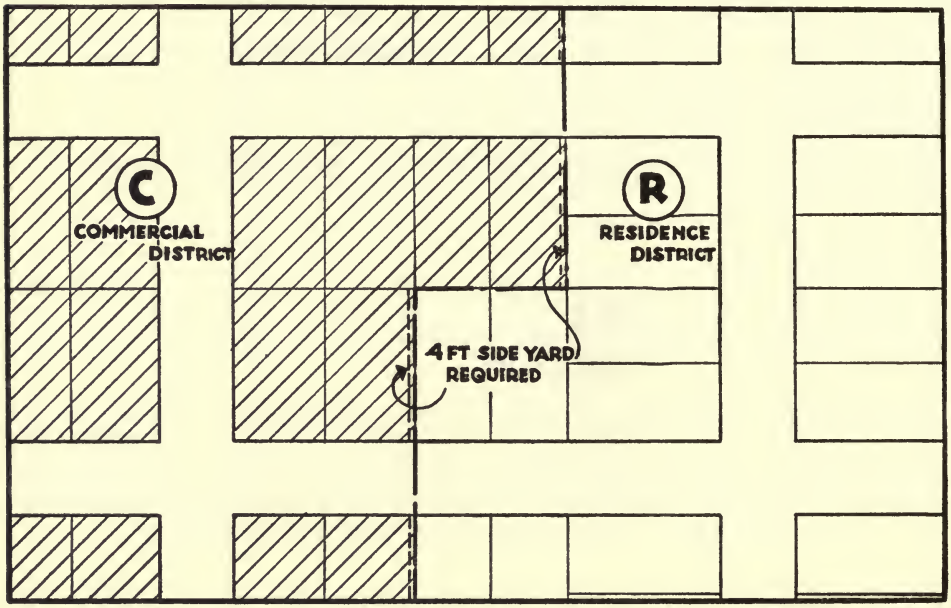
DAVENPORT, IA. 1927.

SECTION 17. 1ST VOLUME DISTRICT.

. . . . . .

Side Yard:

(*d*) . . . In a Commercial district along the line of adjacent premises which are in a Residence district there shall be a side yard (except in the case of an Auxiliary building) not less in width than 4 feet; . . . .



26. Side Yards: to be of special width if adjoining residence district

A similar clause applies a percentage rule for determining such yard width (**26b**). The Fort Wayne, Ind., ordinance contains a provision that, in a district where only one side yard is normally required, on lots adjoining a more restricted residence district this yard shall be on the side adjoining such district (**26d**). Several cities confine the side yard requirement to lots abutting upon the sides of lots in residence districts (**26e**, illustrated on page 70). Five Ohio cities raise the special side yard width to ten feet, but require it for the front 50 feet of the lot only (**26f**). Two cities fix this width at ten feet for the entire depth of the lot (**26g**), several others at 15 feet (**26h**), and one, for industrial districts only, at 20 feet (**26i**).

27. Side Yards: requirements of less restricted district apply to adjacent residential lots

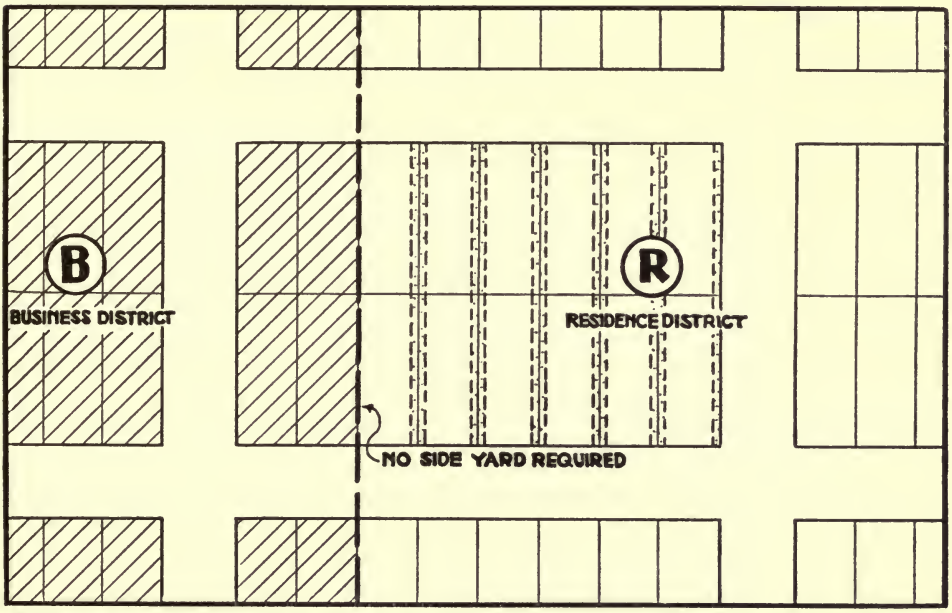
On the other hand, three California cities eliminate the side yard requirements where lots in residence districts adjoin business or industrial districts:

Long Beach, Cal. 1929.

Section 4. Residence District (R2).

(*e*) (Amended by Ordinance C-820)

Along the entire length of each side lot line in the residence district there shall be left entirely unoccupied a side yard at least four feet (4′) wide, if the lot is over forty feet (40′) in width, and, in the event such lot is forty feet (40′) or less in width, the width of the side yard shall



27. Side Yards: requirements of less restricted district apply to adjacent residential lots

be at least ten per centum (10%) of the width of the lot, but, in no event, less than three feet (3′); provided, that no side yard need be left on that side of a lot which immediately adjoins the boundary line of a business, a public and semi-public use district or an industrial district; . . . .

Covington, Ky., similarly eliminates the side yard requirement for garages (**27a**).

28. Setback: on business frontage adjoining residence to equal residential setback throughout block

The regulation of setbacks or front yards at the boundary of two classes of districts has naturally received much attention in zoning ordinances. The evils of a business occupancy, for example, coming out directly to the street line so as to bottle up, with a blank wall or worse, adjoining dwellings set back as required in a residence district have been keenly felt in many quarters. In a substantial number of cases setback requirements have been reduced, but in the majority they have been strengthened in order to bring about greater harmony in the setback in the same block. Some provisions secure absolute uniformity with the more restricted part of a frontage; others establish one intermediate in depth. In the inspection of the ordinances nearly 60 variations were discovered, most of them of distinct technical interest. Among them all every phase was dealt with at least once, so that an organized arrangement of the material constitutes a quite adequate presentation of the subject. For convenience a large number of provisions requiring larger setbacks in the less restricted district are subdivided into four groups: those where residence setbacks continue undiminished throughout the half-block (**28, 29**), those in which a special limit to this rule or a special setback is established for the half-block (**30**), those in which the transition zoning applies only to the lot next to the boundary (**31**), and those few which deal with the matter by establishing a diagonal line connecting the normal setback lines in the two districts (**32**).

A simple thoroughgoing provision extending the residence setback along all the business property on the same frontage (see plate facing page 4) follows:

Boulder, Colo. 1928.

Section 6. "D" Business District Regulations

. . . . . .

Setback: . . . Where the frontage on one side of a street between two intersecting streets is Zoned partly as Residence and partly as Business the setback requirements of the Residence Districts shall apply to the entire frontage.

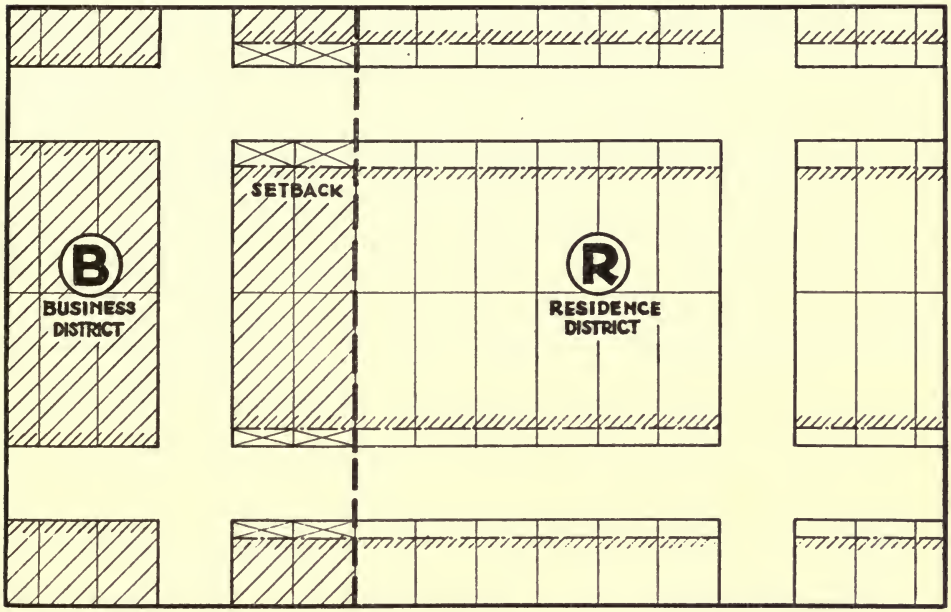
Courtesy of City Plan Commission, Evansville *Photographs by Raymond W. Blanchard*

28a. TWO STORES ON OPPOSITE CORNERS OF SAME INTERSECTION REQUIRED TO SET BACK, THUS PRESERVING OPENNESS OF RESIDENCE STREET, EVANSVILLE

Courtesy of S. Herbert Hare

28c. STORE REQUIRED TO SET BACK TO THE FRONT LINE OF APARTMENTS IN REST OF BLOCK, KANSAS CITY, MISSOURI

In those cities having a set of area districts separate from use districts, the wording is correspondingly modified (**28a,** see plate facing page 68). In Kansas City, Mo., existing setbacks exercise a considerable degree of control over the situation, the regulation being operative only if no lot within its scope is already built up with a lesser setback than required in



28. Setback: on business frontage adjoining residence to equal residential setback throughout block

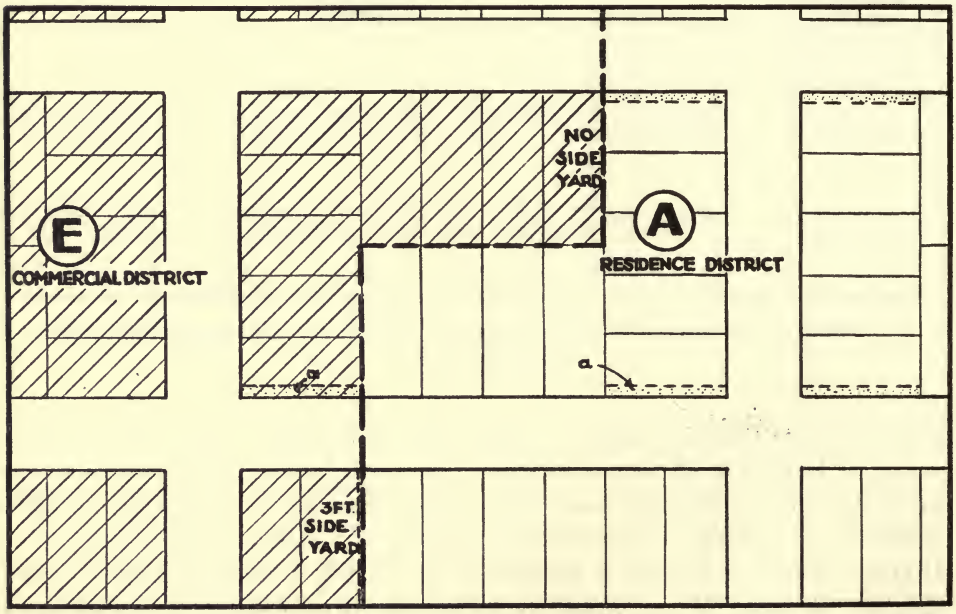
the residence district (**28c,** see plate facing page 68). Two cities eliminate the long side of corner lots from the regulation in certain business districts, thus nullifying one of its most important applications (**28f**). Norfolk, Va., allows a one-story projection of a store to the same extent that an unenclosed porch is permitted in the adjoining residence district (**28g**). St. Paul, Minn., applies similar transition zoning to setback lines for apartments in the same block with one- or two-family residence districts (**28h,** see plate facing page 24). In Riverside, Cal., setbacks in "church districts" are governed by those in adjoining districts (**28i**). Two cities confine such regulations to suburban business districts (**28j**).

In other cities only isolated business districts not exceeding a specified

size are covered (**28k**). By a similar clause (**28n**), Cleveland, O., perpetuated the setbacks required under its former setback zoning ordinance (for two examples, see plate facing this page). In Worcester, Mass., the residence setback controls such small isolated business districts except within 100 feet of a business street, thus failing at the very point where the regulation is most needed (**28q**). Lynchburg, Va., meets the special case where a business frontage is flanked on both sides by residential frontage in the same block, seemingly a rare one (**28r**).

29. Setback: on business frontage on street mainly residential to equal residential setback

A few ordinances meet only situations arising on a residence street at its intersection with a business street. In sections of the country where



29. Setback: on business frontage on street mainly residential to equal residential setback

26e. Side Yards: to be of special width if adjoining residential side lot line

rectangular platting is practically universal, the following wording, using the odd phrase "reversed corner lot," meets the typical need of keeping the business buildings back to the line of the dwellings:

Courtesy of City Plan Commission, Cleveland

28n. SETBACK FOR A STORE IN A TWO-FAMILY HOUSE NEIGHBORHOOD UNDER SUPERSEDED SETBACK ORDINANCE PERPETUATED BY TRANSITION CLAUSE IN PRESENT ZONING ORDINANCE, CLEVELAND

Courtesy of City Plan Commission, Cleveland

28n. CORNER STORE REQUIRED TO SET BACK IN CONFORMITY WITH ADJOINING APARTMENT HOUSES, CLEVELAND

PEORIA, ILL. 1931.

SECTION 13. HEIGHT AND AREA REGULATIONS.

"E" Commercial District.

. . . . . .

SIDE YARD: . . . Where a reversed corner lot rears upon a lot zoned for dwelling purposes, the side yard on the street side of the reversed corner lot shall be the same as required in the "A" One-Family District. [Similar provisions in "F" and "G" Commercial and "I," "J," and "K" Industrial Districts]

Two Ohio cities meet only the special case where the corner lots are not "reversed" but face the residential street (**29a**). Patterson, Cal., requires automobile greasing and washing facilities on lots adjacent to residence districts to set back to the line of the adjacent residences (**29b**). Dayton, O., confines the setback to a distance of 25 feet from the residence district (**29c**). For another special case, that of accessory buildings on a "reversed corner lot," four cities proscribe a space similarly situated running 25 feet along the street and extending back to the depth of the residential setback (**29d**, illustrated on page 132). In the Williamsport, Pa., ordinance this regulation, which, however, relates only to residence districts, is not confined to a 25-foot length of frontage, but covers the entire frontage of the adjacent less restricted lot (**29e**).

30. SETBACK: ON BUSINESS FRONTAGE ADJOINING RESIDENCE TO HAVE SPECIAL DEPTH THROUGHOUT BLOCK

The following ordinance is similar to that in a preceding category (**28**) but sets a 15-foot maximum limit to the setback in business districts:

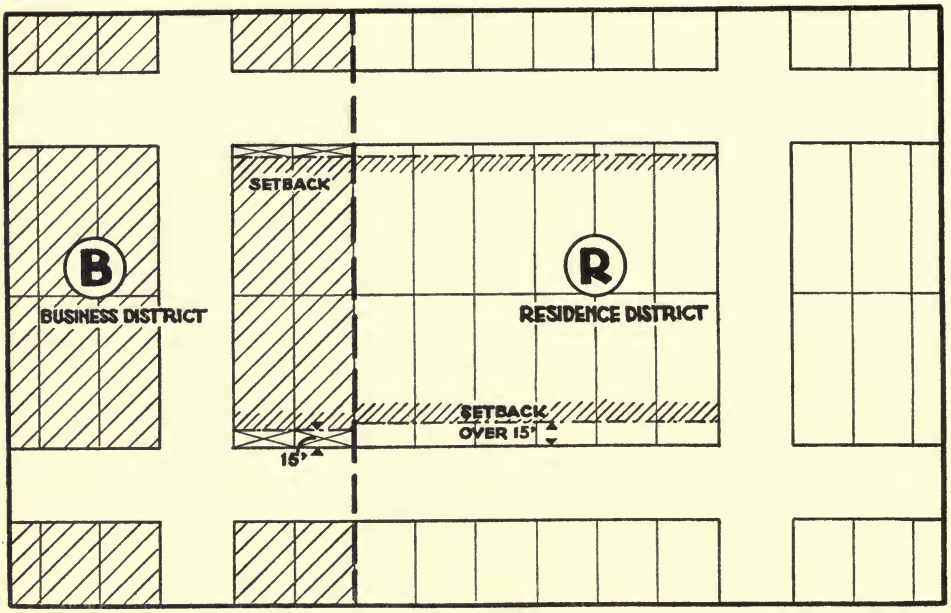
LAKE BLUFF, ILL. 1924.

SECTION XI. BUILDING LINE SET BACK.

(*c*) Where the continuation of the front line of one or more lots in a Business District forms the front line of one or more lots in the same block and in a Residence District the buildings in the Business District shall, along that frontage, conform to the setback requirements of the adjoining Residence District, but no business building shall be required by this section to set back more than fifteen feet from the street line.

Several cities add the further limitation that the setback shall not exceed the setback already established by existing buildings (**30a**).

Grosse Pointe, Mich., subsequent to the Holden *v.* Connor decision (see page 12), which was adverse to a transition zoning clause adopted as an amendment to its ordinance in 1930, has adopted another amendment



30. Setback: on business frontage adjoining residence to have special depth throughout block

fixing a special setback of ten feet for business lots adjacent to a residence district (**30b**). In University City, Mo., this setback is 30 feet. Denver, Colo., provides a special setback only in the case of the business portion of a block with its long side partially in a residence district and reduces this setback wherever there is an existing building to that of such building (**30c,** illustrated on page 134). Altoona, Pa., applies a special setback to small isolated business districts (**30d**).

31. Setback: on business lot adjoining residence to have special depth

A special setback for a business lot adjacent to a residence district is fixed by the following ordinance at one-half the residential setback:

Ossining, Town of, N. Y. 1930. (Illustrated on page 63.)

Section 9

Front Yards

(*a*) Requirements in "Residence" and "Business" Districts.

. . . . . .

On any lot within a "Business" District which is within the same block on the same side of the street and within 50 feet of the boundary line of any "Residence" District, a front yard or equivalent open space is required of a depth not less than one-half the minimum front yard depth prescribed herein for that class of "Residence" District which adjoins such "Business" District.

In Fort Atkinson, Wis., a somewhat more inclusive wording has been adopted, applying to all districts under circumstances similar to those above (**31b**). Glen Cove, N. Y., reduces the length of frontage over which this setback extends to 25 feet, and adds a proviso, rather unnecessary in such a case, reducing this setback if an intervening building has a smaller setback (**31c**). Mason City, Ia., specifies the amount of such a setback to be 15 feet (**31d**). East Cleveland, O., confines the special setback to an area ten feet square (**31e**). In Sioux City, Ia., the setback is required in local business districts except where part of the block is already built out to the street, but it is provided that this exception shall not apply within 20 feet of a residence district (**31f,** illustrated on page 137). Two Kentucky cities deal with the case of the corner lot adjacent to a residence district on the side street by requiring a special setback on the side street (**31g**).

32. Setback: business lot adjoining residence to have diagonal setback line

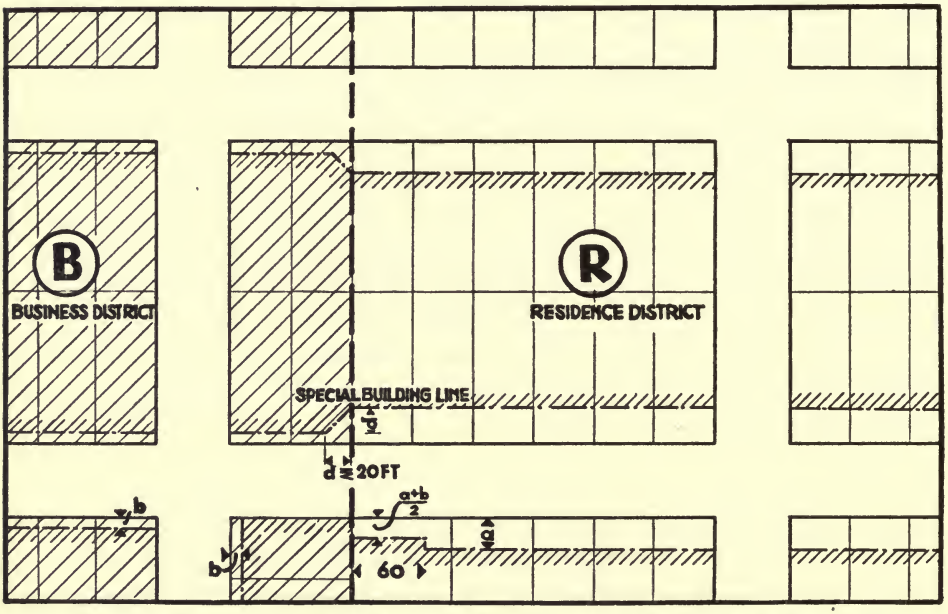
Theoretically, at least, the soundest method of all for dealing with a change in setback, in all cases where it is not desired to carry the larger setback along the entire block, is to establish a diagonal line connecting the two setback lines. Yet only three cities, all in Illinois, were found to have utilized such a provision. The following ordinance establishes a 45-degree diagonal setback line in the less restricted district, beginning at the point where the setback in the more restricted district intersects the district boundary line:

GLENCOE, ILL. 1931.

ARTICLE X. BUILDING LINE SETBACK.

(*e*) Where a district boundary line separates districts with different building line setback requirements, a special building line shall be established in the district of lesser setback requirement, located by connecting the following points by a straight line, namely, a point on the established building line of the district of lesser setback requirement, at a distance from the district boundary line equivalent to the difference in the setback requirements of the two (2) districts (but this distance need not exceed twenty (20) feet), and the point of intersection of the building line of the district of greater setback requirement, and the district boundary line.

In practice, it might be found that while this would prevent business



32. Setback: business lot adjoining residence to have diagonal setback line

34c. Setback: depth on lots adjoining less restricted district to be average of two districts

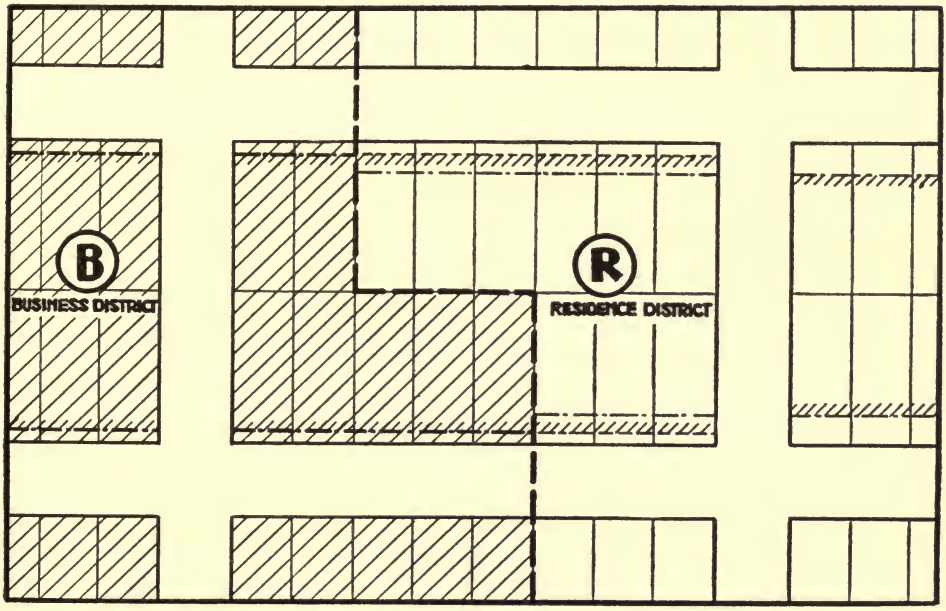
buildings going out to the street line and thus tending to obstruct dwellings on adjacent lots, it would still allow an undue bottling-in of the residence district by business buildings whose exposed rear walls face the dwelling lots across a shallow rear yard, required in business districts. The remedy

for this would be the same as for the analogous case of a difference in building heights (as set forth in category **20,** above), namely, to amend the above clause so as to continue the greater setback across any required yard adjacent to the boundary and start the diagonal line at that point. The bottling-in effect might be further reduced by changing the angle of the sloping line from 45 degrees, or one-to-one, to one-to-two or even one-to-three feet along the street.

Chicago confines the 45-degree diagonal building line to the rear end of the side frontage of corner lots (**32a**).

33. Setback: block in two districts to have lesser setback throughout

The instances where special reduced setbacks have been established



33. Setback: block in two districts to have lesser setback throughout

to diminish the discrepancy between opposite sides of a zoning line apply such reductions in a few cases to the entire block but more often to lots adjacent to the less restricted district. In addition, we find instances where existing buildings determine the setback and instances where none is required. This last provision may, of course, be considered as merely

a special case of the application of the lesser of two setbacks to the frontage in question.

The simplest clause, covering all the ordinary situations, is as follows:

WHEATON, ILL. 1929.

SECTION X. — BUILDING LINE SET BACK

(*b*) Where two Districts meet in one block, the set back requirements of the less highly restricted District shall be applicable to the frontage in the entire block.

In Lincoln, Neb., where local business districts have greater setbacks than those for apartment house districts, the former setbacks are reduced throughout the block to equal the latter (**33a**).

34. SETBACK: ON LOT ADJOINING LESS RESTRICTED DISTRICT TO BE REDUCED

The privilege of a reduced setback is more frequently limited to the adjacent lot. In the following clause, its amount is arbitrarily set at one-half the usual setback:

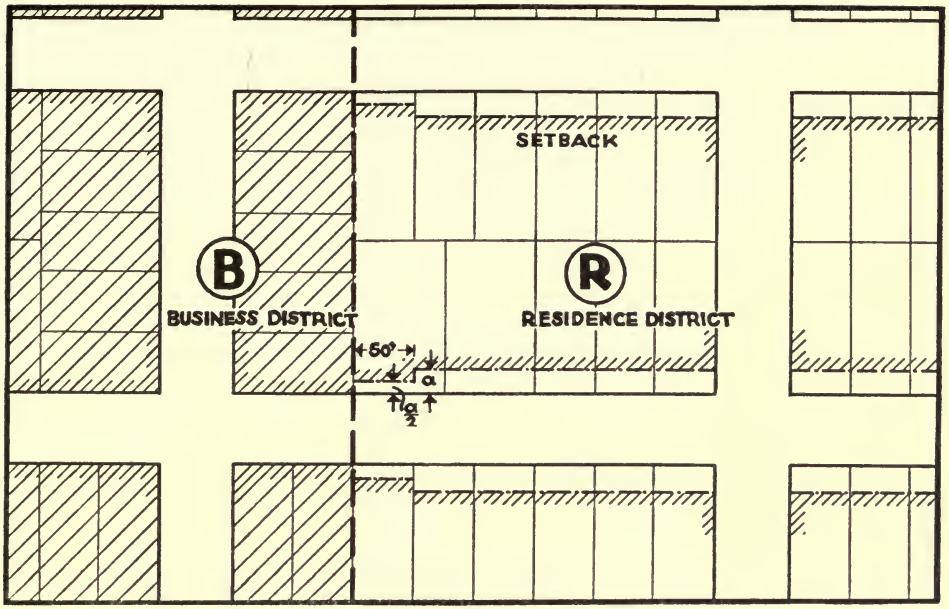
SHEBOYGAN, WIS. 1925.

SECTION III. AREA REGULATIONS.

6. Building Line Set Back:

(*b*) Where a lot on which a building line set back is required adjoins a lot where a smaller set back or no set back is required, the building on the first mentioned lot, for a distance of not more than fifty (50) feet from the District line, shall be required to observe only one-half the set back that would otherwise be required for first mentioned lot.

Other cities apply this relaxation only on a lot whose side line is adjacent to a business district (**34a**). The maximum amount for such a setback is sometimes established (**34b**). Two Illinois cities fix the amount of the special setback at the average of the greater and the lesser (**34c**, illustrated on page 74). This amount is, of course, the same as the amount, one-half the greater, fixed in the clause quoted above (**34**), wherever no setback is required in the less restricted district. Croton-on-Hudson, N. Y., applies such a reduced setback to all residence lots adjacent to business or industrial districts (**34d**).



34. Setback: on lot adjoining less restricted district to be reduced

35. Setback: on lot in a block in two districts to be determined by existing buildings

The often-used principle of relating required setbacks to those of existing buildings is applied to transition zoning in the following clause by including existing buildings on both sides of the boundary line as far as intersecting streets when calculating the average setback, which is then applied to the proposed building in the less restricted district:

Boston, Mass. 1930.

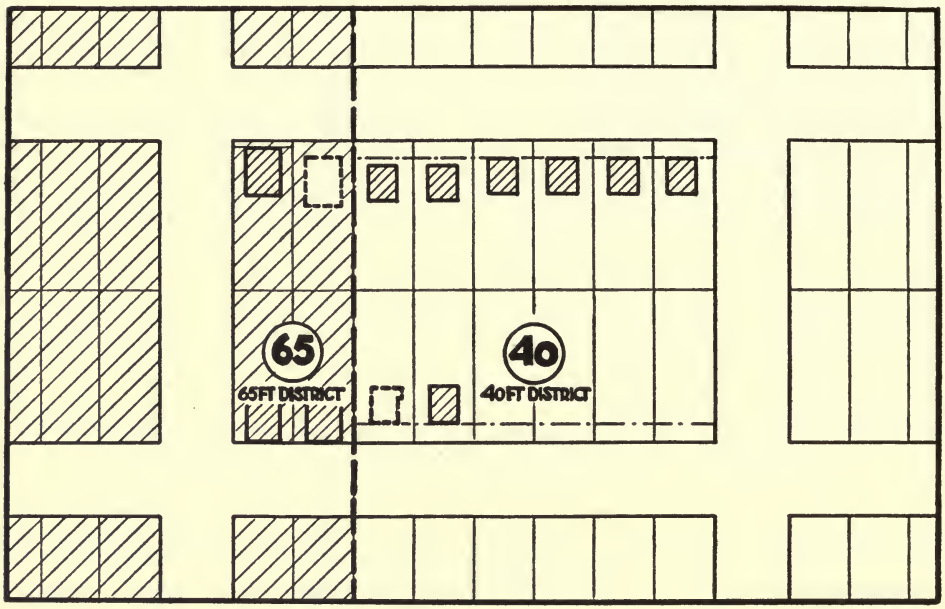
Sixty-five Foot Districts.

Section 13. In a sixty-five foot district: —

. . . . . .

Set-back: In a single or general residence district, in a sixty-five foot district and in any adjacent forty foot or thirty-five foot district on lots fronting on one side of a street between two intersecting streets no building shall hereafter be erected or altered to be nearer the street line than the average set-back of existing buildings within such limits, subject to the following provisions: . . . .

Dayton, O., applies this method in such a way as either to increase or reduce the setback in the less restricted district (**35a**). Two Ohio cities reverse the use of this method so as to apply it to a proposed building in



35. Setback: on lot in a block in two districts to be determined by existing buildings

the more restricted district (**35b,** illustrated on page 132). In two Kentucky cities, a very elaborate provision reduces the setback on a lot on the more restricted side of a zoning line to the average between a normal setback and that of existing buildings on either side of the lot regardless of the zoning line (**35c,** illustrated on page 141). Two other cities have adopted a provision relating to a very special case, to wit, where between a proposed building on a business lot and a residence district in the same block there already exists a building set out in front of a setback line otherwise established (**35d**). Two New York towns and a village, all of a prevailingly rural character, establish the setback in all industrial districts to equal that of the "adjoining average residential front setback on the same street" (**35e**), a phrase which might, however, involve some argument as to its precise meaning.

36. Setback: block partly in district without setback to have no setback

The application of the principle of reducing setbacks in the more restricted part of the block to equal those in the less restricted part will of course result in no setback at all in a block where none is required in the less restricted district. The following clause permits the setback to be omitted in community store districts occupying part of a block with commercial or industrial districts:

Scotia, N. Y. 1931.

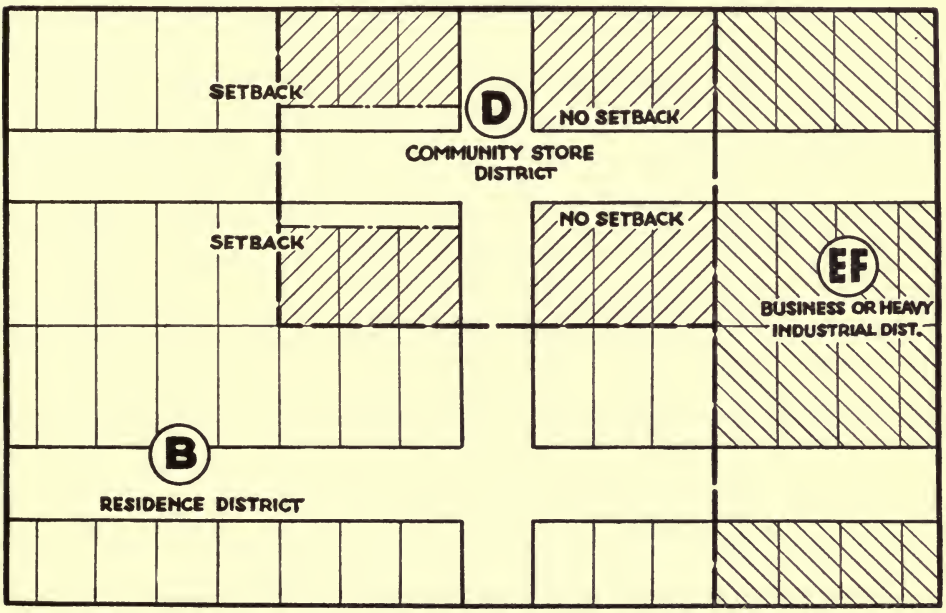
Article VI. Regulations, "D" Community Store District

Section 2

. . . . . .

Front Yard:

. . . Where part of the frontage on that side of the street between the two intersecting streets is located in the Business or Heavy Industrial districts no front yard shall be required. [Similar provision in apartment house districts]



36. Setback: block, partly in district without setback, to have no setback

Memphis, Tenn., applies the same idea to certain business districts in the same half-block with industrial or unrestricted districts (**36a**). Jackson, Mich., waives setbacks where commercial districts occupy part of a half-block, except in outlying sections (**36b**). Mishawaka, Ind., deals similarly with a special situation where a residence district adjoins a commercial district or one type of light industry district which is directly across the street from one of two other types of light industry district (**36c**). As a general rule, to be followed unless local circumstances unavoidably demand it, such special provisions as this should be avoided in zoning ordinances. Transition zoning deals with situations so specialized that unnecessary further specialization of treatment gives unfortunate emphasis to its least satisfactory aspect.

However, it is confidently believed that, sanely utilized, many of the features of the subject set forth in this research are capable of local adaptation and adoption, to the great and lasting benefit of every community.

PART TWO

INDEX OF CITIES
COMPILATION OF TRANSITION CLAUSES
TEXT OF PERTINENT LAW CASE

INDEX OF CITIES USING TRANSITION ZONING

City, Town, or County	Population 1930 Census	Dates of Ordinances Inspected	Categories of Instances
ALABAMA			
Birmingham	259,678	1926	11i, 12, 14, 23f, 25, 33b
ARIZONA			
Tucson	32,506	1930	1, 11h, 25
CALIFORNIA			
Beverly Hills	17,429	1932	12c, 17
Culver City	5,669	1926	2, 5g, 27
Delano	2,632	1927	27
Livermore	3,119	1931	16
Long Beach	142,032	1922–9	2, 27
Los Angeles County	2,208,492	1929	16
Oakland	284,063	1931	6
Patterson	905	1930	29b
Riverside	29,696	1929	6a, 28b, 28i
Sacramento	93,750	1923–9	12a, 26e, 28d, 30
Santa Barbara	33,613	1922–30	1
COLORADO			
Boulder	11,223	1928	28
Denver	287,861	1925–9–30	28k, 30c
Pueblo	50,096	1931	4
Sterling	7,195	1929	4
CONNECTICUT			
Bristol	28,451	1931	1d
Meriden	38,481	1927	1, 15
New Britain	68,128	1925	11
New London	29,640	1928	1d
Norwalk	36,019	1929	1d
West Hartford	24,941	1924	15a
West Haven	25,808	1931	1d
Westport	6,073	1930	8b, 11
Winchester (including Winsted)	8,674	1930	11, 16d
Windsor	8,290	1931	1d
DELAWARE			
Wilmington	106,597	1924–8	11d, 15g
FLORIDA			
Orlando	27,330	1927	30
GEORGIA			
Savannah	85,024	1925	19a
ILLINOIS			
Alton	30,151	1928	30a, 34a
Aurora	46,589	1929	34c
Chicago	3,376,438	1927	1, 5, 11m, 14d, 14e, 14f, 15c, 16a, 18a, 32a
Downers Grove	8,977	1925	34a
East Moline	10,107	1929	28j
Glencoe	6,295	1921–31	32, 34c
Glen Ellyn	7,680	1923	34a
Highland Park	12,203	1926–30	11, 12d, 32
Homewood	3,227	1929	30
La Grange	10,103	1925–30	34a
La Grange Park	2,939	1925	31

INDEX OF CITIES USING TRANSITION ZONING — (*Continued*)

City, Town, or County	Population 1930 Census	Dates of Ordinances Inspected	Categories of Instances
ILLINOIS — (*Continued*)			
Lake Bluff	1,452	1924	30, 34a
Lake Forest	6,554	1923–7	1
La Salle	13,149	1927	1
Libertyville	3,791	1925	34a
Marengo	1,948	1928	34a
Mount Prospect	1,225	1923	34a
Mundelein	1,011	1925	30, 31
Niles Center	5,007	1926	34a
North Chicago	8,466	1926	30, 31
Orland Park	571	1931	1
Peoria	104,969	1931	26e, 28f, 29, 30
Rockford	85,864	1923–7	34, 34b
Roselle	807	1931	30, 34
Springfield	71,864	1924	1
Waukegan	33,499	1924	30, 34, 34b
Western Springs	3,894	1923	30, 31
Wheaton	7,258	1929	33
Zion	5,991	1929–30	34
INDIANA			
Anderson	39,804	1923	28k
Evansville	102,249	1925–8–30	28a, 30
Fort Wayne	114,946	1928	1, 16b, 26c, 26d
Hammond	64,560	1931	30a, 34a
Indianapolis	364,161	1922–9	18
Kokomo	32,843	1925	5d
Mishawaka	28,630	1927–31	30, 36c
South Bend	104,193	1928	30
Valparaiso	8,079	1925	5d
Vincennes	17,564	1929	15b, 26c
IOWA			
Ames	10,261	1930	11, 34a
Cedar Rapids	56,097	1925–6	28a
Council Bluffs	42,048	1927	28a
Creston	8,615	1930	30a, 34a
Davenport	60,751	1925–7	14d, 14e, 14f, 15c, 16a, 26
Des Moines	142,559	1926–8–30	28a
Harlan	3,145	1927	11, 34a
Mason City	23,304	1928	11, 13, 31d, 34a
Newton	11,560	1927	30a, 34a
Red Oak	5,778	1925	11, 31
Sioux City	79,183	1931	28a, 28m, 31f
KANSAS			
Arkansas City	13,946	1931	11, 13, 30, 34
Emporia	14,067	1929	22k
Hays	4,618	1931	30
Herington	4,519	1927	30
Lawrence	13,726	1926	11a, 22h
Wichita	111,110	1929–32	1, 7, 25, 28
KENTUCKY			
Covington	65,252	1931	1b, 11e, 11k, 11p, 22e, 24b, 27a, 29d, 31g, 35c
Lexington	45,736	1930	1, 11e, 11k, 11p, 22e, 29d, 31g, 35c
Louisville	307,745	1927–31	23, 26e, 28f, 29, 30

INDEX OF CITIES USING TRANSITION ZONING — (*Continued*)

City, Town, or County	Population 1930 Census	Dates of Ordinances Inspected	Categories of Instances
LOUISIANA			
New Orleans	458,762	1929	23, 26e, 28e
Shreveport	76,655	1925	1
MAINE			
Mount Desert	2,022	1928	1
Portland	70,810	1926–8	1, 9a, 15
MASSACHUSETTS			
Belmont	21,748	1925–7	1
Boston	781,188	1924–30	1, 35
Brookline	47,490	1925	1
East Longmeadow	3,327	1928	11, 31a
Everett	48,424	1926	11, 26e
Fairhaven	10,951	1926	1, 11
Falmouth	4,821	1928	1, 11
Franklin	7,028	1930	1
Gloucester	24,204	1927	11
Haverhill	48,710	1925	1, 22b
Lowell	100,234	1926	35
Lynn	102,320	1926–9	26h, 30a
Marblehead	8,668	1928	1, 11
Medford	59,714	1925	1, 9b, 11f
New Bedford	112,597	1925–6–7–8–9–30–31	22b
Pittsfield	49,677	1927–8–9–30–31	11, 25
Revere	35,680	1929	11
Stoneham	10,060	1925–6–7–8–9–30–31	11
Wakefield	16,318	1925–9	1
Walpole	7,273	1925	11
Waltham	39,247	1925	11, 22i
Westfield	19,775	1931	11, 22a, 31a
West Springfield	16,684	1923–9	22b
Westwood	2,097	1929	1, 11
Wilbraham	2,719	1931	11
Winthrop	16,852	1922–9	1
Woburn	19,434	1925	1
Worcester	195,311	1923	11h, 22b, 22g, 22j, 28q, 31a
MICHIGAN			
Dearborn	50,358	1931	5f, 12b
Grand Haven	8,345	1923	28
Grosse Pointe	5,173	1927–30–32	23d, 25i, 30b
Grosse Pointe Farms	3,533	1928	22b
Jackson	55,187	1923–8–30	25e, 36b
Lansing	78,397	1927–9	26a
Muskegon	41,390	1925–8	2a
Sault Ste. Marie	13,755	1929	34a
MINNESOTA			
Duluth	101,463	1925–7	26e, 26h, 28
Minneapolis	464,356	1924–5–7	28j
St. Paul	271,606	1922–6	5c, 11m, 28, 28h
MISSOURI			
Kansas City	399,746	1923–9–30	1, 5a, 24d, 28c
Kirkwood	9,169	1928	26e, 30
Springfield	57,527	1930	23, 26e, 29, 30
University City	25,809	1922	30b

INDEX OF CITIES USING TRANSITION ZONING — (*Continued*)

City, Town, or County	Population 1930 Census	Dates of Ordinances Inspected	Categories of Instances
MONTANA			
Billings	16,380	1930	1
Great Falls	28,822	1930	34
NEBRASKA			
Lincoln	75,933	1926–7–8–9	33a
Omaha	214,006	1924	28
NEW HAMPSHIRE			
Concord	25,228	1930	1, 15
Manchester	76,834	1927	1
Nashua	31,463	1930	23c, 25
Portsmouth	14,495	1927	1, 15
NEW JERSEY			
Atlantic City	66,198	1930	1d
Atlantic Highlands	2,000	1930	11
Bloomfield	38,077	1930	1a, 1c
Chatham	3,869	1929	1
Deal	800	1923	22a
Demarest	1,013	1922	1
Dover	10,031	1929	11, 25, 31
Elizabeth	114,589	1922–31	11, 16e, 22b
Garwood	3,344	1922	11
Highland Park	8,691	1923	11
Hillsdale	2,959	1929	26h
Hillside	17,601	1922–31	11, 15d, 24a, 25, 31
Jersey City	316,715	1922–31	9c
Kearny	40,716	1922–8	11
Lakewood	7,869	1923–8	11
Longport	228	1929	11, 25h
Madison	7,481	1922	11, 22b
Midland Park	3,638	1931	1d
Monmouth Beach	457	1930–31	22a
Morristown	15,197	1928	11
New Brunswick	34,555	1924	1
North Arlington	8,263	1930	11
North Caldwell	1,492	1930	11, 26g
Norwood	1,358	1928	1
Nutley	20,572	1930	11, 22b
Orange	35,399	1922	11, 22a
Passaic	62,959	1922	11, 22b
Princeton	6,992	1929	1
Rahway	16,011	1920–30	1d
Ridgefield Park	10,764	1930	1
Riverton	2,483	1930	11
Roselle	13,021	1922–30	11
Roselle Park	8,969	1921	11, 22a
Rutherford	14,915	1922	22b
Seaside Park	571	1930	11, 25h, 31
Somerville	8,255	1930	11, 26g, 26i
South Orange	13,630	1922–9	11, 22a
Teaneck	16,513	1929–30	1d
Tenafly	5,669	1922–5	1
Ventnor	6,674	1928	11, 22i
West Hoboken*		1922	11, 22c

* Now part of Union City. Not counted in total.

INDEX OF CITIES USING TRANSITION ZONING — (*Continued*)

City, Town, or County	Population 1930 Census	Dates of Ordinances Inspected	Categories of Instances
NEW JERSEY — (*Continued*)			
West Orange	24,327	1921	11
Woodbridge	25,266	1931	1d
Wyckoff	3,001	1930	11, 12e, 15e, 22d
NEW YORK			
Attica	2,212	1928	3
Babylon	4,342	1931	2
Baldwinsville	3,845	1925	22i
Batavia	17,375	1926	11, 22b
Bayville	1,042	1930	24
Bellport	633	1929	11, 25h, 31
Binghamton	76,662	1922	2b, 8a, 18b
Briarcliff Manor	1,794	1928	11
Brighton	9,065	1928	11
Buffalo	573,076	1930	11c, 15f, 21, 21a
Croton-on-Hudson	2,447	1931	1, 34d
East Aurora	4,815	1928	11
East Hampton	1,934	1927	11, 22i
Elmira	47,397	1930	11, 25, 31
Elmsford	2,935	1930	11
Fulton	12,462	1922	1
Glen Cove	11,430	1926	1, 22c, 24c, 31c
Hamburg	4,731	1927	11
Harrison	10,195	1928–31	9
Irvington	3,067	1930	11, 24, 25h
Jamestown	45,155	1931	1
Kenmore	16,482	1928	14c
Kingston	28,088	1928	11
Middletown	21,276	1928	11, 15g
Mount Kisco	5,127	1928	11, 25
Mount Vernon	61,499	1922	11, 22b
North Hempstead	62,202	1929	11
North Tonawanda	19,019	1927	1
Orchard Park	1,144	1930	11, 14c
Ossining (Village)	15,241	1931	11, 24, 25, 31
Ossining, Town of	17,724	1930	11, 24, 25, 31
Patchogue	6,860	1930	11, 22i
Penfield	3,306	1930	35e
Pittsford (Village)	1,460	1930	35e
Pittsford, Town of	5,732	1929	35e
Port Chester	22,662	1927	11
Ramapo	16,321	1930	26h
Rye	8,712	1928	11
Scarsdale	9,690	1922–6	22b
Scotia	7,437	1931	18c, 19, 36
Southampton	3,737	1930	26h
Tarrytown	6,841	1930	11, 24, 25, 31
Tonawanda	12,681	1928	11
Tuckahoe	6,138	1930	15i, 22f
Utica	101,740	1924–31	30
Valley Stream	11,790	1929	1
Warsaw	3,477	1928–9–30	3
Yonkers	134,646	1920	1

INDEX OF CITIES USING TRANSITION ZONING — (*Continued*)

City, Town, or County	Population 1930 Census	Dates of Ordinances Inspected	Categories of Instances
NORTH CAROLINA			
Chapel Hill	2,699	1928	14a, 25
Fayetteville	13,049	1929	11, 14a, 25, 31
Goldsboro	14,985	1930	25, 31
Greensboro	53,569	1926–30	11, 25a, 31
High Point	36,745	1928	11, 14a, 25, 31
Rocky Mount	21,412	1928	11, 14a, 25, 31
Thomasville	10,090	1930	11, 12, 14a, 23e, 25, 30
Winston-Salem	75,274	1930	4b, 11, 14a, 30
NORTH DAKOTA			
Grand Forks	17,112	1928	30
OHIO			
Ashland	11,141	1926	11
Canton	104,906	1928–9–31	4b, 11, 23e, 25d, 35d
Cincinnati	451,160	1924	11j, 11k
Cleveland	900,429	1929	28n, 29a
Cleveland Heights	50,945	1921–7	5a
Dayton	200,982	1926–30–32	11, 11k, 29c, 35a
East Cleveland	39,667	1922	23b, 31e
Elyria	25,633	1929	10, 11
Euclid	12,751	1922–7	23b, 26f
Kent	8,375	1931	26f
Lakewood	70,509	1922–4	23a
Lorain	44,512	1926	11
Mayfield Heights	2,612	1929	23b, 26f
North College Hill	4,139	1929	11
Norwood	33,411	1929	11, 29d, 35b
Oakwood	6,494	1925	11, 22i
Olmsted Falls	673	1928	11, 14, 23c, 25
Ottawa Hills	1,185	1928	28a
Parma	13,899	1930	5e, 28n, 29a, 34
Piqua	16,009	1930	11
St. Bernard	7,487	1930	11, 29d, 35b
Shaker Heights	17,783	1927	23b, 26f
Springfield	68,743	1931	14b, 28p
University Heights	2,237	1927	4a, 5b, 23b, 26f
Westerville	2,879	1928	14a, 25c, 28k
Worthington	1,239	1928	8c
Wyoming	3,767	1925	11, 22i
Youngstown	170,002	1929	11, 11k
OKLAHOMA			
Blackwell	9,521	1926	1
OREGON			
Portland	301,815	1927	4d
Salem	26,266	1926	4d
PENNSYLVANIA			
Abington	18,648	1930	1
Altoona	82,054	1928	10a, 30d
Bethlehem	57,892	1926	11, 14, 25
Brentwood	5,381	1929–30–31	11
Cheltenham	15,731	1929	1
Chester	59,164	1927	11
Collingdale	7,857	1929	1
Crafton	7,004	1926	11
Easton	34,468	1928	11, 25

INDEX OF CITIES USING TRANSITION ZONING — (*Continued*)

City, Town, or County	Population 1930 Census	Dates of Ordinances Inspected	Categories of Instances
PENNSYLVANIA—(*Continued*)			
Greentree	1,457	1929	11
Haverford	21,362	1925	1
Johnstown	66,993	1926–7	11, 14, 25
Lansdowne	9,542	1926–7	1
Lower Merion	35,166	1927	1
Monessen	20,268	1928	4b, 11, 14, 23f, 33b, 35d
New Castle	48,674	1925	11, 25
Norwood	3,878	1927	1
Prospect Park	4,623	1925	11
Radnor	12,263	1928–9–31	1
Ridley Park	3,356	1929	1
South Williamsport	6,058	1931	11, 25
Springfield Township (Delaware County)	4,589	1930	1
Springfield Township (Montgomery County)	5,541	1930	1
State College	4,450	1927	1
West View	6,028	1925	11, 14
Wilkinsburg	29,639	1929	11, 14
Williamsport	45,729	1931	11, 23, 24f, 25, 29e
Wyomissing	3,111	1925–6–9	1
Wyomissing Hills	410	1929	1
RHODE ISLAND			
Cranston	42,911	1924	11b
North Providence	11,104	1930	1, 11, 28k
Providence	252,981	1928	11, 14b
Woonsocket	49,376	1923	11, 14b, 28k
SOUTH CAROLINA			
Charleston	62,265	1931	11, 14
SOUTH DAKOTA			
Sioux Falls	33,362	1928	5a, 11n, 14d, 14e, 22m, 26
TENNESSEE			
Chattanooga	119,798	1927	26e, 30
Knoxville	105,802	1928–30	23, 28d
Memphis	253,143	1922–30–31	25g, 36a
UTAH			
Ogden	40,272	1931	16c, 25b, 28
Salt Lake City	140,267	1927	16c, 25f
VIRGINIA			
Arlington County	26,615	1930	26b
Charlottesville	15,245	1929	11g, 26b, 30
Lynchburg	40,661	1931	25a, 28r, 31
Norfolk	129,710	1924	11, 15h, 24e, 28g
Staunton	11,990	1927	11g, 14a, 25a
WASHINGTON			
Seattle	365,583	1923	1, 4c, 23, 25f
Spokane	115,514	1930	1, 4c, 7a, 19b, 23, 25
WEST VIRGINIA			
Wheeling	61,659	1931	14a
WISCONSIN			
Appleton	25,267	1928	1
Fort Atkinson	5,793	1931	31b
Grand Chute	2,741	1929	1
Kenosha	50,262	1924–8	11q, 28

INDEX OF CITIES USING TRANSITION ZONING — (*Concluded*)

City, Town, or County	Population 1930 Census	Dates of Ordinances Inspected	Categories of Instances
WISCONSIN — (*Continued*)			
Menasha	9,062	1930	1
Mequon	2,681	1931	1
Milwaukee	578,249	1928	1
Milwaukee County	725,263	1927	1
Neenah	9,151	1915–30	1, 28
Sheboygan	39,251	1925	34
South Milwaukee	10,706	1931	30
Two Rivers	10,083	1926	11, 28k
Waupun	5,768	1930	1

COMPILATION OF TRANSITION CLAUSES

(For titles of Categories, see Table of Contents, page vii. Categories are numbered throughout this report in **bold-face.** Wherever excerpts from ordinances are quoted in this research the greatest care has been taken to preserve the original punctuation and grammatical construction.)

1. Meriden, Conn. 1927. Section 1 (*c*). (For text, see page 26.)

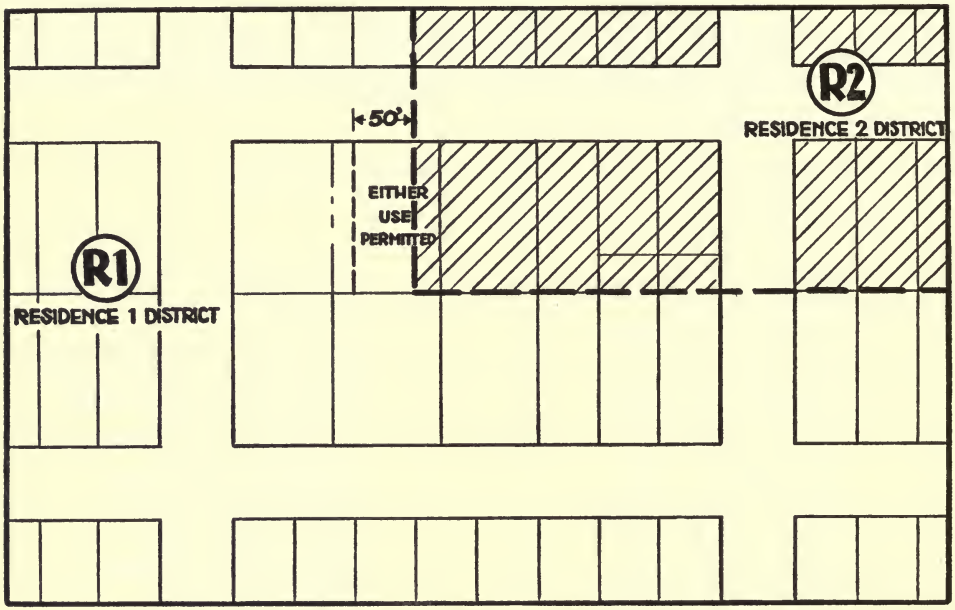
Similar provision in following ordinances:

Tucson, Ariz., 1930
Santa Barbara, Cal., 1930
Chicago, Ill., 1927
Lake Forest, Ill., 1923
La Salle, Ill., 1927
Orland Park, Ill., 1931
Springfield, Ill., 1924
Fort Wayne, Ind., 1928
Wichita, Kan., 1932
Lexington, Ky., 1930
Shreveport, La., 1925
Mount Desert, Me., 1928
Portland, Me., 1926
Belmont, Mass., 1927
Boston, Mass., 1930
Brookline, Mass., 1925
Fairhaven, Mass., 1926
Falmouth, Mass., 1928
Franklin, Mass., 1930
Haverhill, Mass., 1925
Marblehead, Mass., 1928
Medford, Mass., 1925
Wakefield, Mass., 1929
Westwood, Mass., 1929
Winthrop, Mass., 1929
Woburn, Mass., 1925
Kansas City, Mo., 1930
Billings, Mont., 1930
Concord, N. H., 1930
Manchester, N. H., 1927
Portsmouth, N. H., 1927
Chatham, N. J., 1929
Demarest, N. J., 1922
New Brunswick, N. J., 1924
Norwood, N. J., 1928
Princeton, N. J., 1929
Ridgefield Park, N. J., 1930
Tenafly, N. J., 1925
Croton-on-Hudson, N. Y., 1931
Fulton, N. Y., 1922
Glen Cove, N. Y., 1926
Jamestown, N. Y., 1931
North Tonawanda, N. Y., 1927
Valley Stream, N. Y., 1929
Yonkers, N. Y., 1920
Blackwell, Okla., 1926
Abington, Pa., 1930
Cheltenham, Pa., 1929
Collingdale, Pa., 1929
Haverford, Pa., 1925
Lansdowne, Pa., 1926
Lower Merion, Pa., 1927
Norwood, Pa., 1927
Radnor, Pa., 1928
Ridley Park, Pa., 1929
Springfield Township, Delaware County, Pa., 1930
Springfield Township, Montgomery County, Pa., 1930
State College, Pa., 1927
Wyomissing, Pa., 1926
Wyomissing Hills, Pa., 1929
North Providence, R. I., 1930
Seattle, Wash., 1923
Spokane, Wash., 1930
Appleton, Wis., 1928
Grand Chute, Wis., 1929
Menasha, Wis., 1930
Mequon, Wis., 1931
Milwaukee, Wis., 1928
Milwaukee County, Wis., 1927
Neenah, Wis., 1930
Waupun, Wis., 1930

1a. Bloomfield, N. J. 1930 (As amended, Dec. 15).

Section 4 —

(*b*) Where the boundary line between any two classes of residential zones intersects the front line of any single lot, title to which lot is in a single ownership at the time of the passage of this ordinance, such lot, for a distance not exceeding 50 feet on either side of said boundary line, may be devoted to any of the uses permitted in either of said two classes of residential zones.



1a. Lots with Frontage in Two Districts: to conform to lesser restrictions for specified distance

1b. Covington, Ky. 1931.

Section II — Districts and Map

(2) (Map). . . .

Where a district boundary line as established in this section or as shown on the Building Zone Map divides a lot in a single ownership at the time of the enactment of this Ordinance, the use authorized and the district requirements of the least restricted portion of such lot shall be considered as extending to the entire lot, provided the more restricted portion of such lot is entirely within 25 feet of said dividing district boundary line.

1c. Bloomfield, N. J. 1930 (As amended, Dec. 15).

Section 4 —

(*c*) Where the boundary line between any two classes of residential zones crosses one or both of the side lines of any single lot, title to which lot is in a single ownership at the time of the passage of this ordinance, the entire lot may be devoted to any of the uses permitted in the zone in which the front of such lot is located, provided however, such lot shall be deemed not to extend in depth beyond the center of the block in which it is located.

1d. New London, Conn. 1928.

Section XIII. Zone Boundaries.

. . . . . .

A lot situated in the interior of a block and divided by the zone boundary lines into two different zones may, in so far as it is situated at least 100 feet from any street bounding the block in which it is located, be used in accordance with the use regulations of the less restricted zone into which the lot is divided.

Similar provision in following ordinances:

Bristol, Conn., 1931
Norwalk, Conn., 1929
West Haven, Conn., 1931
Windsor, Conn., 1931
Atlantic City, N. J., 1929
Midland Park, N. J., 1931
Rahway, N. J., 1930
Teaneck, N. J., 1930 (150′ instead of 100′)
Woodbridge, N. J., 1931

2. Culver City, Cal. 1926. Section 7 (*b*). (For text, see page 28.)

Similar provision in following ordinances:

Long Beach, Cal., 1929
Babylon, N. Y., 1931

2a. Muskegon, Mich. 1925 (As amended, Dec. 28).

Section XVI — Boundaries of Districts

(*E*) All single lots situated in two districts shall be construed to be a portion of that district which shall be the least restricted.

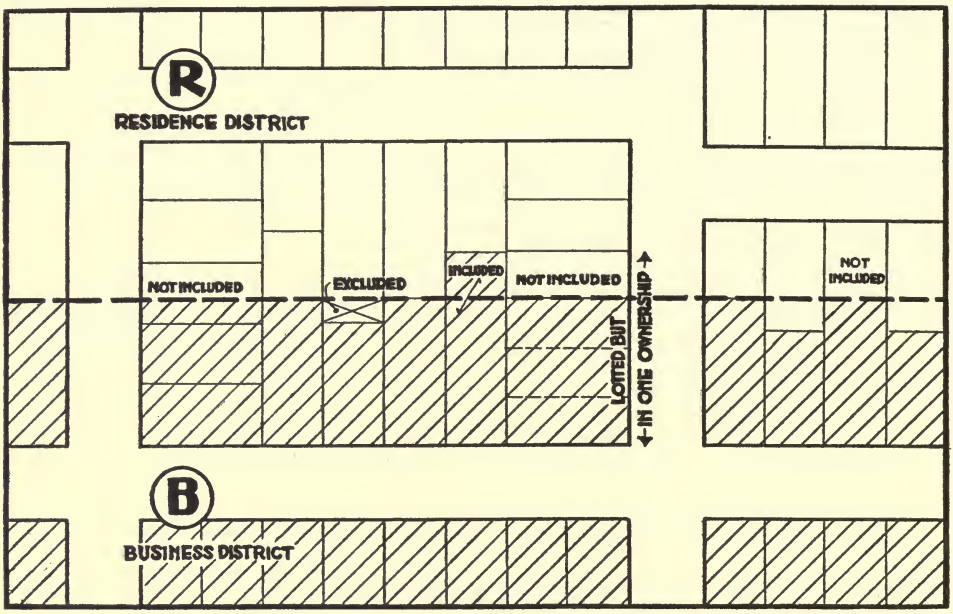
2b. Binghamton, N. Y. 1922.

Section 4. (Official Maps and District Boundaries)

. . . . . .

Wherever the area within any block bounded by streets is apportioned to two or more classes of districts, one or more of which is indicated upon the Use District Map as a strip or piece of land of uniform width parallel with the line of the street upon which it abuts, the normal width of such strip or piece, unless otherwise designated, shall be assumed to be one hundred twenty (120) feet, measured at right angles from the nearest street line of the street to which it is parallel and adjacent, ... Where such width of

one hundred and twenty (120) feet includes seventy-five (75) per cent. or more of the area of any lot in one ownership at the time of passage of this ordinance, the entire area of such lot may be included in such Use District. The entire area of such lot may be included in such Use District, except where the inclusion of such excess area separates the frontages of properties of greater use restriction, and where property has been subdivided into lots, two or more of which are in one ownership at the time of passage of this ordinance, the excess shall not include any portion of any lot lying entirely in a Use District of greater use restriction.



2b. Lots in Two Districts: to conform to lesser restrictions if three quarters in less restricted district

3. Attica, N. Y. 1928. Section VI (*i*). (For text, see page 29.)

Similar provision in following ordinance:

Warsaw, N. Y., 1928

4. Pueblo, Colo. 1931. Section 10. (For text, see page 30.)

Similar provision in following ordinance:

Sterling, Colo., 1929

4a. University Heights, O. 1927.

Section 9. Use District Exceptions.

(2) Any lot in a recorded subdivision, or piece of land the size of which shall be determined by the council, adjoining a class U3 or U4 [general business] district, shall be considered as being in a class U2 [two-family house] district, unless otherwise designated on the zone map as being in a less restricted district.

4b. Canton, O. 1929.

Section 13 — Two-Family Dwelling — "A" Residence District

In an "A" Residence District, a Two-Family Dwelling may be erected on a lot the side of which adjoins a Business or Industrial District, provided the height of the dwelling, the lot area per family housed thereon and the open spaces on the lot are in accordance with the regulations prescribed herein for the District in which such lot is located.

Section 14 — Multiple Dwelling — "B" Residence District

In a "B" Residence District, a Multiple Family Dwelling may be erected on a lot the side of which adjoins a Business or Industrial District, provided the height of the dwelling, the lot area per family housed thereon and the open spaces on the lot are in accordance with the regulations prescribed herein for the District in which such lot is located.

Similar provision in following ordinances:

Winston-Salem, N. C., 1930 Monessen, Pa., 1928

4c. Spokane, Wash. 1930. (Illustrated on following page)

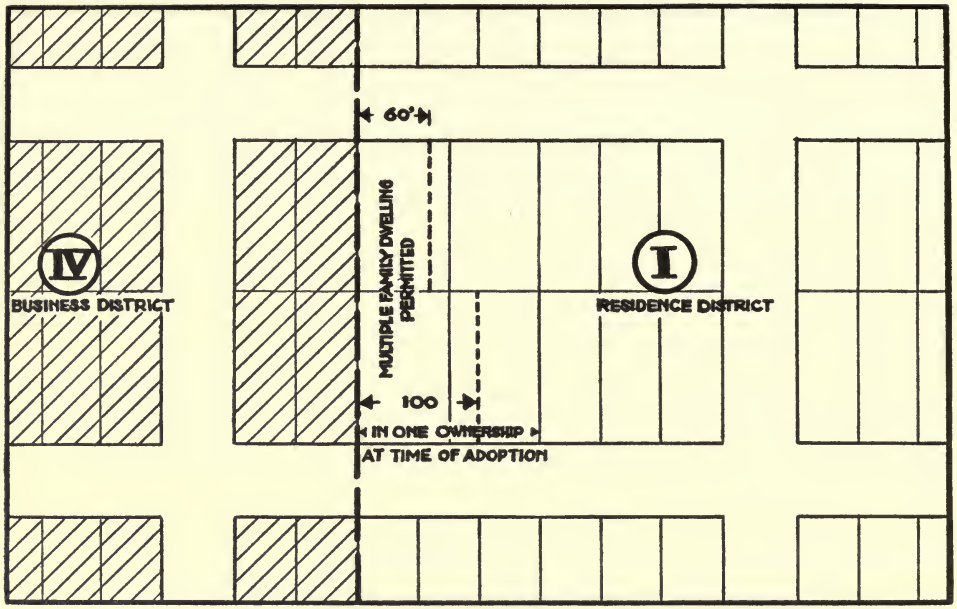
Section 13.

Multiple Dwellings in Class I, Residential District.

Whenever the side line of a lot in the Class I, Residential District constitutes the boundary of a district less restrictive than Class III, or where said boundary line extends entirely across said lot from front to rear, then a multiple family dwelling such as a flat or an apartment house shall be permitted on said lot, provided that said use shall not extend more than sixty (60) feet from said district boundary line and provided further that said use may extend a distance of one hundred (100) feet from said district boundary line if the property involved was of one ownership at the time of passage of this ordinance.

Similar provision in following ordinance:

Seattle, Wash., 1923



4c. Residence Frontage Adjoining Business: apartments permitted

4d. Portland, Ore. 1927.

Section 5. Class II Special Temporary Residence District

In a Class II Special Temporary Residence District, the regulations will be the same as for an ordinary Class II Residence District, except that temporary dwellings will be permitted to be erected and maintained for a period of two years without being approved under Local Option Regulations, provided such dwellings are at least 200 feet from the boundaries of the district. No temporary dwelling shall be erected, altered or maintained within 200 feet of the boundaries of the district unless the same has been authorized under the Local Option Regulations set forth in Section 11. . . .

No such dwelling shall be located within 400 feet of a Class I Residence District or within 100 feet of any street now or hereafter designated by the Council as a major traffic street.

Similar provision in following ordinance:

Salem, Ore., 1926

5. Chicago, Ill. 1927. Section 5. (For text, see page 31.)

5a. Kansas City, Mo. 1930.

Section 4. Residence Districts.

(*a*) Single-family Dwelling. . . . In a class U–1 district no building shall be used,

and no building shall be erected, altered or enlarged which is arranged, intended or designed for a use enumerated in subdivision (2) or (3) of class U–1 uses [church, school, clubs, etc.], unless such building is located:

(7) On a lot immediately adjoining or immediately opposite on the other side of a street from a U–2, U–3, U–4, U–5 or U–6 district; . . . .

Similar provision in following ordinances:

CLEVELAND HEIGHTS, O., 1927 SIOUX FALLS, S. D., 1928

5b. UNIVERSITY HEIGHTS, O. 1927.

SECTION 4. SINGLE FAMILY HOUSE DISTRICT.

. . . In a class U1 district no building shall be erected which is arranged, intended or designed for a use enumerated in a sub-division (2) of class U1 uses [church, school, public library, etc.], unless such building is located:

(5) On a lot fronting on a portion of a street between two intersecting streets in which portion there exists premises devoted to a class U6 use, or to non-conforming use;

(6) On a lot immediately adjoining or immediately opposite on the other side of the street from a class U2, U3 or U4 district; or

In a class U1 district, no building shall be erected which is arranged, intended or designed for a use enumerated in subdivision (3) or (4) of class U1 uses [public park, railway station, etc.], unless such building is located: . . .

(4) On a lot immediately adjoining or immediately opposite on the other side of the street from a class U2 or U3 district; . . . .

5c. ST. PAUL, MINN. 1926.

SECTION 8. USE DISTRICT LIMITATIONS AND EXCEPTIONS.

e. For the purpose of maintaining the residential character in "A" and "B" residence districts, no public, semi-public or institutional buildings or uses shall hereafter be located in "A" and "B" residence districts, except as follows: . . . on land at least one side of which is the boundary line of another use district other than an "A" or "B" residence district; or [etc.] . . . .

5d. KOKOMO, IND. 1925.

SECTION 2. USE DISTRICTS.

In a Residence district . . . no building or premises shall be used, and no building shall be erected which is arranged, intended or designed to be used, for other than one or more of the uses specified in the following Table as permitted in such . . . Residence . . . district:

8. Community Center Building, Private Club, excepting a club the chief activity of which is a service customarily carried on as a business. Philanthropic or Eleemosynary Institution other than a Penal or Correctional Institution. Hospital or Sanitarium other than for the insane or feebleminded.

[These uses] not permitted unless located on a lot:

3. Immediately adjoining or opposite from a business or industrial district.

Similar provision in following ordinance:

VALPARAISO, IND., 1925

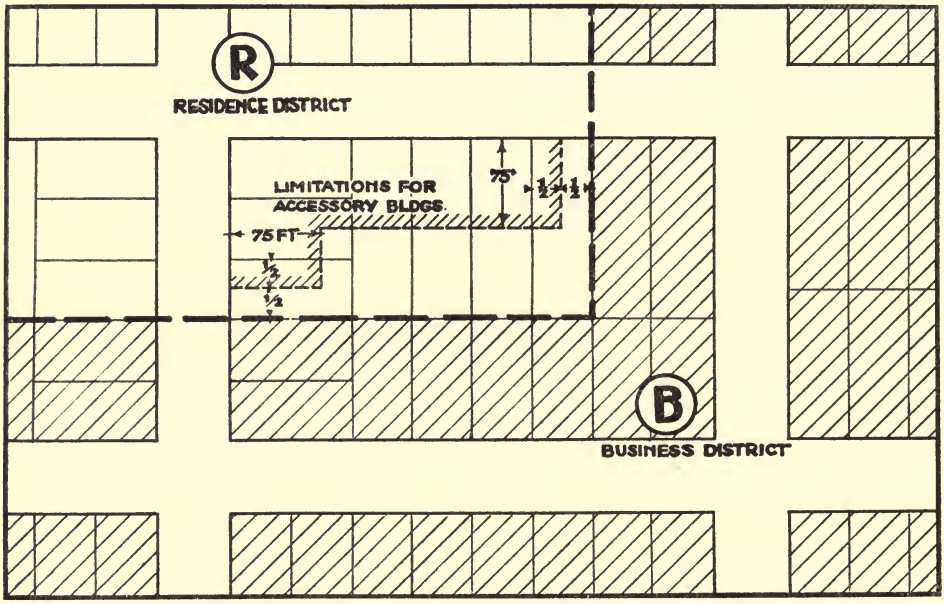
5e. PARMA, O. 1930.

SINGLE FAMILY HOUSE DISTRICTS

SECTION 3.

Within any Single Family House District, no building or premises shall be erected, used, arranged or designed to be used in whole or in part for other than one or more of the following specified uses:

(*h*) Crematories in existing cemeteries, provided they are not within 300 feet of any boundary that abuts a Residence District.



5g. Residence Adjoining Business: accessory buildings permitted without limitations

5f. DEARBORN, MICH. 1931.

SECTION 501.4. USES PERMITTED IN A RESIDENCE D DISTRICT.

501.42 PERMITTED ACCESSORY USES.

501.421 A DINING ROOM, RESTAURANT, BARBER SHOP, FLORIST, CONFECTIONERY or TOBACCONIST'S SHOP, DRUG STORE, DOCTOR'S or DENTIST'S OFFICE, or similar retail store or office or other service customarily located within an apartment building, hotel

or club, when located wholly within a building of a type permitted in a Residence D District and being more or less accessory thereto, provided there is no display or advertising visible from the exterior of such building other than the announcement signs permitted herein; except that on a corner lot or a lot adjoining a Business or Industrial District such activities may have display windows, entrances, and signs placed flat against the building wall, within that half of the building façade lying nearest to the corner, or to the adjoining Business or Industrial District, but in no case extending more than fifty feet therefrom, or extending above the level of the ground story.

5g. Culver City, Cal. 1926.

Section 4. Accessory Uses in Residence and Apartment Districts.

(*b*) In the residential district accessory buildings which are within seventy-five feet (75′) of the street shall be located so as to conform to the following provisions: [three limiting provisions]

4. The provisions of this Paragraph shall not apply to that half of the lot which immediately adjoins the boundary line of a business, a public and semi-public use district or industrial district.

6. Oakland, Cal. 1931. Section 30. (For text, see page 32.)

6a. Riverside, Cal. 1929.

Section 5.

(*b*) Zones C2 or Church Districts. In Zones C2 no building, structure, improvement or premises shall be erected, constructed, established, altered, maintained or used, . . . which is designed, arranged or intended to be occupied or used for any purpose other than for church purposes, including Sunday Schools, pastors' studies, parsonages or recreational or entertainment uses incidental to church purposes. Church property shall, on the discontinuance of its use for church purposes, become a part of the adjoining or surrounding zone and subject to all of the conditions and restrictions thereof and if two or more zones adjoin or surround such church property the most highly restricted zone shall govern.

7. Wichita, Kan. 1929. Section 5, § 21. (For text, see page 34.)

7a. Spokane, Wash. 1930.

Section 6.

Class III, Local Business District.

In the Class III, Local Business District, no building or premises shall be used and no building shall be hereafter erected or structurally altered, unless otherwise provided in this ordinance, except for one or more of the following uses:

1. Any use permitted in the Class I, Residential District.
2. Retail stores [etc.] . . . .
5. Whenever any Class III, Local Business District, is located within or is adjacent to, on two or more sides, any Class II, Residential [Apartment House] District, the uses

permitted in the Class II, Residential District, will also be permitted in such Class III, Local Business District, ...

8. Model Clause. (For text, see page 37.)

8a. Binghamton, N. Y. 1922.

Section 4. (Official Maps and District Boundaries)

. . . . . .

Wherever the area within any block bounded by streets is apportioned to two or more classes of districts, one or more of which is indicated upon the Use District Map as a strip or piece of land of uniform width parallel with the line of the street upon which it abuts, the normal width of such strip or piece, unless otherwise designated, shall be assumed to be one hundred twenty (120) feet, measured at right angles from the nearest street line of the street to which it is parallel and adjacent, and said Use District shall apply only to lots fronting on the street to which said strip is parallel or adjacent.

8b. Westport, Conn. 1930.

Section 4. Business District Uses

. . . . . .

Whenever any Business District or Zone shall be laid out or designated by these Regulations and / or by the map dated August 18, 1930, and as amended Sept. 9, 1930, which is made a part hereof, so as to include a certain road or public highway and all land or premises immediately adjacent to said road or public highway and within two hundred (200) feet of either street line of said road or public highway; nothing contained in these Regulations and / or in or upon said Map shall be construed to permit the erection, construction, reconstruction or use of any building or premises for a use permitted in a Business District unless said building or premises shall have a frontage on the main road or public highway in said District and no such building or premises located solely on a side street and having no frontage on the main road or public highway in said District, even though located within two hundred (200) feet of said road or public highway, shall be occupied or used for a use permitted in a Business District but prohibited in the Residence District immediately adjacent to said building or premises.

8c. Worthington, O. 1928.

Section 2c–1.

Any building or structure hereafter erected or altered on any lot or land which, as hereinbefore provided, may be classed as lying jointly within class 2 [residential] and class 3 districts [class 3 (business) is defined as land abutting on High St.], and designed or intended to be used in whole or in part for retail business, shall front upon and be constructed flush with the street line of High Street, unless in the judgement of the Planning Commission the nature and exigencies of the business for which it is intended to be used require said building to be set back a distance sufficient to permit of the transaction of the business for which it is to be constructed. When such a building or structure

is commenced or constructed, no other retail business building or structure, except as a part of or incident to said building, shall be erected on said lot, nor any other retail business conducted on the remainder or rear of said lot. Whenever any such lot is divided and the rear portion thereof disposed of by sale or otherwise, such portion shall automatically become a part of class 2 district as defined in the first two paragraphs of section *2b*, supra.

9. Harrison, N. Y. 1928 (As amended, 1931). Section 12 (10). (For text, see page 38.)

9a. Portland, Me. 1926 (As amended, 1928).

Section 11.

g. Where any business zone abuts upon a residential or apartment house zone in such a manner that the dividing lines between the zones are 100 feet or less from the main business street of such business zone, no building of non-conforming use in such residential or apartment house zone shall be built nor such existing building altered so as to have its front facing upon any other street than said main business street or so as to have any entrance doors or any windows other than those for light and air only more than 30 feet from said main business street.

9b. Medford, Mass. 1925.

Section 17. District Boundaries.

. . . Where a business or industrial district adjoins a residence district business and industrial buildings shall have no openings on side streets for the receiving or delivery of goods.

9c. Jersey City, N. J. 1931.

Section X. Abutting Districts.

Par. 1. All buildings hereafter erected, altered or constructed in a business, commercial and light industrial or heavy industrial district where the lot or plot on which said building is to be erected, altered or constructed abuts a residential district, may extend to the full depth of the lot or plot; provided, however, that no entrance or exit shall be constructed on the premises facing the residential district.

10. Elyria, O. 1929. Section V (25). (For text, see page 39.)

10a. Altoona, Pa. 1928.

Section 12. Local Business District Uses.

4. In any separate unit of a LB District which unit is bounded by streets and alleys on at least three sides and has an area of less than 20,000 square feet, no dwelling or structure shall be built which does not conform to the requirements of the dwelling use, height and area District which abuts on the respective unit; no automobile filling or oiling station, public parking yard or garage shall occupy more than one-half of the area of any such unit; and no business shall be conducted which is not essentially of a retail nature.

11. Roselle Park, N. J. 1921. Section 7 (*b*). (For text, see page 40.)

Similar provision, with varying distances, in following ordinances:

New Britain, Conn., 1925
Westport, Conn., 1930
Winchester, Conn., 1930
Highland Park, Ill., 1930
Ames, Ia., 1930
Harlan, Ia., 1927
Mason City, Ia., 1928
Red Oak, Ia., 1925
Arkansas City, Kan., 1931
East Longmeadow, Mass., 1928
Everett, Mass., 1926
Fairhaven, Mass., 1926
Falmouth, Mass., 1928
Gloucester, Mass., 1927
Marblehead, Mass., 1928
Pittsfield, Mass., 1931
Revere, Mass., 1929
Stoneham, Mass., 1931
Walpole, Mass., 1925
Waltham, Mass., 1925
Westfield, Mass., 1931
Westwood, Mass., 1929
Wilbraham, Mass., 1931
Atlantic Highlands, N. J., 1930
Dover, N. J., 1929
Elizabeth, N. J., 1931
Garwood, N. J., 1922
Highland Park, N. J., 1923
Hillside, N. J., 1931
Kearny, N. J., 1928
Lakewood, N. J., 1923
Longport, N. J., 1929
Madison, N. J., 1922
Morristown, N. J., 1928
North Arlington, N. J., 1930
North Caldwell, N. J., 1930
Nutley, N. J., 1930
Orange, N. J., 1922
Passaic, N. J., 1922
Riverton, N. J., 1930
Roselle, N. J., 1930
Seaside Park, N. J., 1930
Somerville, N. J., 1930
South Orange, N. J., 1929
Ventnor, N. J., 1928
West Hoboken, N. J., 1922
West Orange, N. J., 1921
Wyckoff, N. J., 1930
Batavia, N. Y., 1926
Bellport, N. Y., 1929
Briarcliff Manor, N. Y., 1928
Brighton, N. Y., 1928
East Aurora, N. Y., 1928
East Hampton, N. Y., 1927
Elmira, N. Y., 1930
Elmsford, N. Y., 1930
Hamburg, N. Y., 1927
Irvington, N. Y., 1930
Kingston, N. Y., 1928
Middletown, N. Y., 1928
Mount Kisco, N. Y., 1928
Mount Vernon, N. Y., 1922
North Hempstead, N. Y., 1929
Orchard Park, N. Y., 1930
Ossining, Town of, N. Y., 1930
Ossining (Village), N. Y., 1931
Patchogue, N. Y., 1930
Port Chester, N. Y., 1927
Rye, N. Y., 1928
Tarrytown, N. Y., 1930
Tonawanda, N. Y., 1928
Fayetteville, N. C., 1929
Greensboro, N. C., 1930
High Point, N. C., 1928
Rocky Mount, N. C., 1928
Thomasville, N. C., 1930
Winston-Salem, N. C., 1930
Ashland, O., 1926
Canton, O., 1929
Dayton, O., 1932
Elyria, O., 1929
Lorain, O., 1926
North College Hill, O., 1929
Norwood, O., 1929
Oakwood, O., 1925
Olmsted Falls, O., 1928
Piqua, O., 1930
St. Bernard, O., 1930
Wyoming, O., 1925
Youngstown, O., 1929
Bethlehem, Pa., 1926
Brentwood, Pa., 1929
Chester, Pa., 1927
Crafton, Pa., 1926
Easton, Pa., 1928
Greentree, Pa., 1929
Johnstown, Pa., 1926 (As amended, 1927)
Monessen, Pa., 1928
New Castle, Pa., 1925
Prospect Park, Pa., 1925
South Williamsport, Pa., 1931
West View, Pa., 1925
Wilkinsburg, Pa., 1929
Williamsport, Pa., 1931
North Providence, R. I., 1930
Providence, R. I., 1928
Woonsocket, R. I., 1923
Charleston, S. C., 1931
Norfolk, Va., 1924
Two Rivers, Wis., 1926

Minimum distance is 15′, in ordinance for Elizabeth, N. J., 1931
Maximum distance is 200′, for public garage, in ordinance for Olmsted Falls, O., 1928

11a. Lawrence, Kan. 1926.

Section 5. U–3 Use District. (Business District)

In a U–3 Use District no building or premises shall be used for and no building shall be erected or altered which is arranged, intended or designed for other than the following uses:

. . . . . .

Public or private garages or repair shop for motor vehicles, except that a garage having space for more than 5 motor vehicles shall not have an entrance or exit for vehicles within 50 feet of any residence U–1 or U–2 District, ...

11b. Cranston, R. I. 1924.

Section 6. Business District.

B. Garages and gasoline storage in business districts. . . . No garage for more than ten motor vehicles shall have an entrance or exit for motor vehicles within 50 feet of a residence district. . . .

11c. Buffalo, N. Y. 1930.

Section 22. Public Stables. Retail Ice Station. Place for the Storage of Live Poultry and Poultry Killing or Dressing. Dining Cars.

1. No public garage for more than ten motor vehicles and no motor vehicle repair shop, public stable, retail ice station or place for storage of live poultry or poultry killing or dressing shall have an entrance or exit for motor vehicles or animals within 50 feet of a residence district or an apartment-hotel district.

11d. Wilmington, Del. 1924.

Section 6. Garages and Stables.

. . . No public garage, except a community garage, as herein specified, shall have an entrance or exit for vehicles within 50 feet along the same street of any Residence District or Apartment District, unless permission therefor be granted by the Board of Adjustment, after such Board shall have determined that the use will not damage surrounding property.

11e. Lexington, Ky. 1930.

Section XIII — Garages and Filling Stations

(*C*) Business and Industrial Districts —

1. In any Business or Industrial District no building or structure or premises shall be used or arranged or designed to be used as a gasoline filling station, automobile repair shop, public garage, or parking lot, having an entrance or exit for vehicles on the same side of the street within 50 feet of a Residence District, not across a street or alley, ...

Similar provision in following ordinance:

Covington, Ky., 1931

11f. Medford, Mass. 1925.

Section 18. Location of Automobile Services.

No public garage, automobile repair shop, greasing station, storage battery service station, or gasoline filling station, or any of their appurtenances or accessory uses, shall hereafter be erected or placed within 25 feet on the street line of any Residence District. No driveway to such premises shall be in any part within 25 feet of any Residence District.

11g. Charlottesville, Va. 1929.

Section 6. B–1 Business District Uses —

(6) Public garages conducting repair shops using not more than a total of 10 horsepower in electric motive power for each 5000 square feet of lot area occupied by the building, provided no such garage shall have an entrance or exit nearer than 50 feet to the center line of an intersection street which separates a B–1 Business District from any A or A–1 Residence District.

Similar provision in following ordinance:

Staunton, Va., 1927

11h. Tucson, Ariz. 1930.

Class C Business Districts

Section 8.

[Permitted uses:]

3. Public garages for the storage, sale and repair of motor vehicles, provided the erection and use of a building for such a purpose shall conform to the following regulations: No portion of the side walls shall be nearer than 100 feet to the boundary line of any residence district, ...

Similar provision in following ordinance:

Worcester, Mass., 1923 (50 feet)

11i. Birmingham, Ala. 1926.

Section 20 — Public Garages — Commercial Districts

In a Commercial District, a Public Garage may be established, erected or enlarged, provided:

(*a*) . . . and no portion of such structure shall be located less than fifty (50) feet from a "Residence District" unless separated from such District by a street fifty (50) feet or more in width.

. . . . . .

Section 21 — Service Stations — Commercial Districts

. . . No portion of such structure or its equipment shall be located less than fifty (50) feet from a Residence District, unless separated from such District by a street fifty (50) feet or more in width.

11j. Cincinnati, O. 1924.

Business "A" District Uses.

Section 452–21.

Within any Business "A" District no building, structure or premises shall be used or arranged or designed to be used in any part for any of the following specified uses:

(*e*) . . . Any public garage having in the side or rear walls or roof any opening, except fixed wire glass sashes in non-combustible frames within 15 feet of any lot line not a street or alley line and any part of which is located within 50 feet of any Residence District.

11k. Cincinnati, O. 1924.

Business "A" District Uses.

Section 452–21.

Within any Business "A" District no building, structure or premises shall be used or arranged or designed to be used in any part for any of the following specified uses:

(*e*) . . . Any gasoline filling, oil or greasing station where any appliance for such purposes is located within twelve feet of any street or within 50 feet of any Residence District, ...

Similar provision in following ordinances:

Covington, Ky., 1931
Lexington, Ky., 1930
Dayton, O., 1932
Youngstown, O., 1929

11m. Chicago, Ill. 1927.

Section 10. C Use Limitations

(*e*) No opening in the side or rear wall or roof of a public garage shall be nearer to the boundary line of a Residence or Apartment district than 16 feet.

Similar provision in following ordinance:

St. Paul, Minn., 1926

11n. Sioux Falls, S. D. 1928.

Commercial Use District Restrictions

Section 10.

(*f*) No opening in the side or rear wall or the roof of a public garage shall be nearer to the boundary line of a Class R or a Class M–R district than twenty feet, unless same be a wire glass window with immovable frame.

11p. Lexington, Ky. 1930.

Section XIII — Garages and Filling Stations

(*B*) Residence Districts —

In any Residence District only a private or neighborhood or community garage shall be permitted.

1. Private Garages.

(*b*) . . . Provided, however, that no entrance to a private garage for over five motor vehicles shall face any lot line or make an angle with it of less than 45 degrees within 50 feet of it, except an alley lot line or a lot line of an adjoining lot which lot is in a Business or Industrial District, and further provided that no part of such garage shall be in a Residence "A" District within 30 feet, in a Residence "B" District within 20 feet, and in a Residence "C" District within ten feet, of any lot line except a lot line that is a rear lot line of an adjoining lot, or lot lines of an adjoining lot which lot is in a Business or Industrial District. [Similar provision for neighborhood garages]

Similar provision in following ordinance:

Covington, Ky., 1931

11q. Kenosha, Wis. 1928.

Section 5. Use Regulations.

"E," "F," "G" and "H" Commercial Districts.

20. Public Garages (As amended by Ordinance No. 664): Public Garages shall be permitted in the "E," "F," "G" and "H" Commercial District except that where parts of the frontage on one side of a street between two intersecting streets are designated on the "District Map" as "E" Commercial and "A," "B," "C" or "D" Residential Districts, public garages for storage purposes only shall be permitted.

12. Birmingham, Ala. 1926. Section 11, § 15. (For text, see page 42.)

Similar provision in following ordinance:

Thomasville, N. C., 1930

12a. Sacramento, Cal. 1929.

Section 6.

Limited Retail Districts.

In the Limited Retail Districts all buildings and land except as otherwise provided in this ordinance may be used for any use permitted in the Multiple-Family Districts or for any other use except the following:

11. Funeral Parlors, if within 200 feet of the frontage of property zoned for residential uses.

12b. Dearborn, Mich. 1931.

Article 7. Industrial Districts.

Section 701. Uses of Property in Industrial Districts.

701.1 Uses of Property in an Industrial A District.

701.11 Permitted Principal and Accessory Uses.

701.117 A Cemetery, cryptorium, mausoleum, or crematorium, provided no building or structure containing bodies or remains (other than a subterranean grave) is located nearer than two hundred feet to the boundary line of any Business or Residence District.

12c. Beverly Hills, Cal. 1932.

Section 8. General Provisions — Set-Back

(5) It shall be unlawful for any person, firm or corporation to erect, construct, maintain, alter or enlarge a building designed or used primarily for the purpose of a rest room . . . within twenty (20) feet of Zones R1, R1.5, R4; and provided, further, that any such building must be screened in such a manner that it cannot be seen from any adjoining residential or income residential property or from any street if the property fronting on said street and adjoining the lot upon which is situated said building is within either Zones R1, R1.5 or R4.

12d. Highland Park, Ill. 1930.

Article VI. "C" District Regulations

Section 1. Use: . . . .

47. The use of premises or buildings as Dancing Academies, Filling Stations, Lodge Halls, Public Garages and Theatres shall be subject to the regulations of the present or hereafter adopted laws and ordinances of the City of Highland Park, provided that no person, firm or corporation shall locate, build, construct, or maintain premises or buildings for any of the uses enumerated in this paragraph, . . . within 200 feet of the District Boundary line of an A or B District nor shall any entrance to such a building be located within 125 feet of any such District boundary line.

12e. Wyckoff, N. J. 1930.

Section (5) — Business District Uses

In any Business District no building or structure shall be used for other than one or more of the following three classes of purposes:

(1) Any purpose herein permitted in any Residence District, but without the limitations as to size, location, and advertising hereinbefore recited; and also for any office, retail store, warehouse or stand not hereinafter prohibited where goods are sold or in or from which services are rendered primarily for final consumption and in retail trade, including public garages and filling stations under limitations hereinafter recited, and including places of recreation and amusement: but no public dance hall shall be constructed or conducted within 600 feet of any Residence District. This shall not be construed to prohibit the holding of dances on an occasional and incidental scale by local bona fide social organizations and lodges, as heretofore.

13. Arkansas City, Kan. 1931. Section 16 (*h*). (For text, see page 42.)

Similar provision in following ordinance:

Mason City, Ia., 1928

14. Olmsted Falls, O. 1928. Section 17 (*c*). (For text, see page 44.)

Similar provision in following ordinances:

Birmingham, Ala., 1926
Bethlehem, Pa., 1926
Johnstown, Pa., 1926
Monessen, Pa., 1928
West View, Pa., 1925
Wilkinsburg, Pa., 1929
Charleston, S. C., 1931

14a. High Point, N. C. 1928.

Section 8. Business "B" District Uses

Within any Business "B" District, as indicated on the Building Zone Map, no lot, building or structure shall be used and no building or structure shall be erected which is intended or designed to be used in whole or in part, except as specified in this section, for any industrial or manufacturing purpose, or for other than one or more of the following specified purposes:

(4) Light manufacturing or processing operations creating or likely to create neither smoke, noise, fumes, odor, nor dust detrimental or likely to become detrimental to the health, safety or general welfare of the community and which are carried on in connection with a merchandising business conducted on the same premises, provided that not over 10 horsepower in electric motive power for each 3,000 square feet of lot area occupied is used for more than 50 persons employed in such operations, and further provided that such operations shall not be conducted on the street floor of the building nor within 100 feet of the boundaries of any Residence District: . . . .

Similar provision in following ordinances:

Chapel Hill, N. C., 1928
Fayetteville, N. C., 1929
Rocky Mount, N. C., 1928
Thomasville, N. C., 1930
Winston-Salem, N. C., 1930
Westerville, O., 1928
Staunton, Va., 1927
Wheeling, W. Va., 1931

14b. Providence, R. I. 1928.

Section 5. Business district.

A. General. In a business district no building or premises shall be used, and no building shall be erected which is arranged, intended or designed to be used, for other than a use permitted in a dwelling house district or an apartment house district or for one or more of the following uses: [list] . . . .

B. Exceptions. Provided that, in any part of a business district that is 200 feet or more from a dwelling house district or an apartment house district, any building or premises may be erected or used for any use authorized in paragraphs (1), (2) and (3) of subdivision A of section 6; or for any use authorized in paragraph (4) of subdivision A of section 6, provided that not more than 3 H. P. is employed in the operation of any machine and that such use is not noxious or offensive by reason of the emission of odor, dust, smoke, gas, noise or vibration.

Similar provision in following ordinances:

Springfield, O., 1931
Woonsocket, R. I., 1923

14c. Orchard Park, N. Y. 1930.

Section 6.

No paint shop, cleaning establishment, laboratory, public laundry, public garage nor any place using, storing or manufacturing any explosives or inflammable chemical or substance, shall be erected, established or maintained within the residential district and shall not be erected, established or maintained within any district within fifty (50) feet of the boundary lines of the residential district.

Similar provision in following ordinance:

Kenmore, N. Y., 1928

14d. Chicago, Ill. 1927.

Section 9. Auxiliary Uses in Commercial Districts.

(*a*) Auxiliary uses shall be permitted in a Commercial district. . . .

(*b*) An auxiliary use in a Commercial district shall include an M1 storage use [semi-objectionable industry] as hereinafter defined, provided such M1 storage use shall not occupy in excess of 50 per cent of that part of any premises wholly within a Commercial district, nor shall such M1 storage use be located nearer to a Residence or Apartment district than 50 feet, and further provided that such M1 use shall not be located nearer to a street upon which the C use abuts than 50 feet where a Manufacturing district does not adjoin the same street in the same block or in a block directly across the street from the C use, ...

Similar provision in following ordinances:

Davenport, Ia., 1927 Sioux Falls, S. D., 1928

14e. Chicago, Ill. 1927.

Section 10. C Use Limitations.

(*b*) No C2 use which is not auxiliary to and incidental to a C1 use, if such C2 use is located in that part of a Commercial district which is nearer at any point to a Residence or Apartment district than 125 feet, shall be operated between the hours of 8 p.m. and 6 a.m., if such operation involves the trucking or hauling of materials or products during such hours or if such operation involves processes of a nature such as to disturb the occupants of said Residence or Apartment districts between the hours of 8 p.m. and 6 a.m.

Similar provision in following ordinances:

Davenport, Ia., 1927 Sioux Falls, S. D., 1928

14f. Chicago, Ill. 1927.

Section 10. C Use Limitations.

(*c*) No C2 use or part thereof, except a storage warehouse, or more than one of such uses collectively or individually, together with auxiliary uses thereto, shall be established on more than one-half of the total floor space of a building located in that part of a Com-

mercial district which is nearer than 125 feet at any point to a Residence or Apartment district, but floor space equal to the ground area of any premises in such part of a Commercial district may be occupied by C2 use in any case although in excess of the said one-half; and such part of a Commercial district located within 125 feet of a railroad right of way other than a street railway, or located adjoining or across a street or across an alley from a Commercial district which is not restricted by the provisions of this paragraph or from a Manufacturing district, shall be exempt from the floor space restrictions of this paragraph. . . .

(*d*) No C3 use or part thereof, together with auxiliary uses thereto, shall be established in that part of a Commercial district which is nearer at any point to a Residence district or Apartment district than 125 feet.

Similar provision in following ordinance:

Davenport, Ia., 1927

15. Portland, Me. 1926. Section 3 (*a*). (For text, see page 46.)

Similar provision in following ordinances:

Meriden, Conn., 1927
Concord, N. H., 1930
Portsmouth, N. H., 1927

15a. West Hartford, Conn. 1924.

Section 20. Review by Board of Adjustment.

A. Special exceptions. When in its judgment the public convenience and welfare will be substantially served and the appropriate use of neighboring property will not be substantially or permanently injured, the board of adjustment may in a specific case, after public notice and hearing and subject to appropriate conditions and safeguards, authorize special exceptions to the regulations herein established as follows:

(2) The location of a use included in any of the numbered paragraphs of Section 7 on any lot in an industrial district; provided no part of such use shall be permitted to be located within 200 feet of a residence district; . . . .

15b. Vincennes, Ind. 1929.

Section 7. Manufacturing District.

(*d*) M2 Use: No M2 use, or part thereof, together with auxiliary uses thereto, shall be established in that part of a Manufacturing district which is nearer at any point to a Residence or Apartment district than 125 feet. . . .

(*e*) M3 Use: No M3 use, or part thereof, together with auxiliary uses thereto, shall be established in that part of a Manufacturing district which is nearer to a Residence or Apartment district than 400 feet.

15c. Chicago, Ill. 1927.

Section 11. Manufacturing Districts.

(*b*) . . . .

M2 Use — An M2 use shall include the uses set forth hereunder, provided such use

does not customarily emit dust which is not controlled by competent dust collecting appliances, or such use is one which from the nature of the materials handled or processes customarily employed, emits dust, gas, smoke, noise, fumes, or odors, to such an extent as to affect the health, safety, comfort, morals or welfare of occupants of R or A or C uses located not farther than 400 feet from the M2 use, and which use does not customarily emit corrosive or tarnishing gases or fumes which injure C or M uses distant 100 feet or more from the M2 use, or which does not create vibrations to an extent that would damage buildings or affect the position or alignment of machinery erected with usual permanency on premises distant 100 feet or more from the M2 use; in which classification, subject to the conditions named, is every such use as [list] . . . .

SECTION 12. M USE LIMITATIONS.

(*b*) No M2 use shall be established nearer to a Residence or Apartment district than 400 feet nor nearer to a Commercial district than 125 feet. . . .

Similar provision in following ordinance:

DAVENPORT, IA., 1927

15d. HILLSIDE, N. J. 1931.

ARTICLE 12.

INDUSTRIAL DISTRICT USES

Within any Industrial District no building or premises shall be used in whole or in part and no building shall be erected which is arranged, intended or designed to be used for any of the following specified purposes, manufacture or processes: . . . . Forge shop, . . . if erected more than 100 feet from the boundary of any restricted district; . . . .

15e. WYCKOFF, N. J. 1930.

SECTION (6) — SPECIFIC USES PROHIBITED

. . . . . .

No building, structure or premises in any district shall be used for any of the following purposes except as a necessary and minor incident to an otherwise permitted use:
. . . oil storage or the storage of inflammable liquids exceeding 75,000 gallons above ground within 50 feet of a district boundary line; . . . .

15f. BUFFALO, N. Y. 1930.

SECTION 21. FILLING STATION.

D. Above Ground Tanks. Inflammable liquids known as Class I may be stored in bulk above ground when permitted, only in accordance with the rules and regulations prescribed by ordinance and by the Fire Department of the City of Buffalo, and further conditioned that there shall be a continuous embankment or dike, with no openings, surrounding the tank and if such dike be of masonry or concrete construction, that it shall be at least four feet high and shall have a capacity equal to that of the tank, or, if an earth embankment, a capacity equal to that of one and one-half times the tank, said em-

bankment or dike to be distant from any residence districts, apartment-hotel district, business district, and from passenger docks or passenger tracks in any district at least five hundred (500) feet.

15g. Wilmington, Del. 1924.

Section 5. Industrial District Uses.

Except as a minor and necessary incident to a permitted use, no building, structure or premises within the City of Wilmington shall be used or arranged or designed to be used in any part:

A. Within any Industrial "A" District, for any of the following purposes:
. . . gas storage, . . . in quantities exceeding 2,500,000 cu. ft. within 1,000 feet of any Residence District in any case; . . . .

Similar provision in following ordinance:

Middletown, N. Y., 1928 (but quantity limit 1,000,000 cu. ft. and distance 600 ft.)

15h. Norfolk, Va. 1924.

Section 8. Industrial "A" District Uses.

Within any Industrial "A" District no building, structure or premises shall be used or arranged or designed to be used in any part for any of the following specified uses:

(*b*) Any industry or use, not specifically listed in Sec. 8(*a*) which under proper and adequate conditions and safeguards cannot be so conducted as not to create corrosive, toxic, or noisome fumes, gas, smoke or odors or obnoxious dust or vapor or offensive noise or vibration, ... The provisions of this sub-section (*b*) shall not apply to any railway rolling equipment or to any customary railway operation where the latter is more than 300 feet distant from any Residence or Business District.

15i. Tuckahoe, N. Y. 1930.

Section 7.—Industrial District Uses—

Within any Industrial District, no building or premises shall be used or arranged or designed to be used in any part except accessorily and incidentally and on a small scale for any of the following specified uses: . . . .

Stone crusher within one hundred (100) feet of a Residence District; . . . .

16. Los Angeles County, Cal. 1929. Zone M–3 (*c*). (For text, see page 47.)

Similar provision in following ordinance:

Livermore, Cal., 1931

16a. Chicago, Ill. 1927.

Section 11. Manufacturing Districts.

(*b*) . . . .

M3 Use — An M3 use shall include all M uses which are excluded from the M1 and M2 classification; including every such use as: [list] . . . .

Or any other use that is lawful within the city, which would be harmful by reason of dust, gas, smoke, noise, fumes, odors, vibrations, soot, sudden fire or explosion or any other causes, to a use otherwise classified at a distance of 2,000 feet or more from the M3 use; . . . .

SECTION 12. M USE LIMITATIONS.

(*c*) An M3 use shall not be established nearer to a Residence, Apartment or Commercial district than a distance at which the M3 use would not from any cause be offensive or noxious to the occupants of such Residence, Apartment or Commercial district, but the distance of an M3 use from a Commercial district shall not be less than 500 feet nor shall the distance from a Residence or Apartment district be in any case less than 2,000 feet.

Similar provision in following ordinance:

DAVENPORT, IA., 1927

16b. FORT WAYNE, IND. 1928.

SECTION 8. E DISTRICT.

(*f*) E4 USE. No E4 use hereinafter defined, or part thereof, shall be established nearer to an A, B, C or D district than 1,000 feet, nor nearer to an F district than 500 feet.

16c. SALT LAKE CITY, UTAH. 1927.

SECTION 9. UNRESTRICTED DISTRICTS.

(*b*) Any uses prohibited in Section 8 (Industrial District) that are to be undertaken in this district shall be located at least 660 feet distant from the boundary line of any Residential "A," "B," "B–2," "C" or Commercial District.

Similar provision in following ordinance:

OGDEN, UTAH, 1931

16d. WINCHESTER (including WINSTED), CONN. 1930.

ARTICLE VII. HEAVY INDUSTRIAL DISTRICT

SECTION 1. USE REGULATION

. . . . . .

Buildings or structures may be erected on premises to be used for any of the above uses [nuisance industry], if, after a public hearing, fifteen days published notice of which shall be given, the Board of Selectmen, upon recommendation of the Zoning Commission shall so order that such use in a building, structure or premise shall not be detrimental to the city by reason of the emissions of odor, dust, smoke or noise and shall not be located within 200 feet of a residential district.

16e. Elizabeth, N. J. 1931.

Industrial "B" Districts "Use" Provisions

Section 20.

Within any Industrial "B" District, no building or premises shall be used for any of the following specified purposes: [list] . . . .

Blast furnace, except those having a capacity of less than 200 tons per 24 hours, provided all blast furnace gases are consumed on the premises, and dust, cinders and smoke are reduced to the minimum point obtainable, according to the development of the art at the time of the construction of the furnace, and further provided, that no furnace is to be permitted within one thousand (1,000) feet of the boundary of a more restricted district.

17. Beverly Hills, Cal. 1932. Section 6. (For text, see page 49.)

18. Indianapolis, Ind. 1929. Section 11 (*c*). (For text, see page 52.)

18a. Chicago, Ill. 1927.

Section 16. 1st Volume District.

(*d*) For each 1 foot that a building or portion of it sets back from all lines of adjacent premises, such building or such portion thereof may be erected 3 feet in height in excess of 30 feet, provided that along lines of adjacent premises in a 2nd Volume district the setback regulation required along lines of adjacent premises in a 2nd Volume district shall apply, and further provided that along the lines of adjacent premises in a 3rd or 4th or 5th Volume district no setback shall be required. [Similar provision in 2nd Volume district]

18b. Binghamton, N. Y. 1922.

Section 32. (General Height Exceptions)

5. Upon streets which form the boundary line of height districts as shown upon the Height District Map, the regulations prescribed for that side of the street lying in the district in which the greater height is permitted shall apply to all structures to be erected in such streets, provided, however, that the consent of the Board of Appeals be first obtained.

18c. Scotia, N. Y. 1931.

Article VI

Regulations

"D" Community Store District

Section 2. Height and Area Regulations

In the Community Store District the height and cubical contents of buildings, the minimum dimensions of yards, courts, and open spaces, shall be as follows:

HEIGHT AND CUBICAL CONTENTS: . . . . Where the Community Store District adjoins, on any two (2) sides, class "C," "E" or "F" districts, the height and cubical contents regulations for the Multiple Dwelling District shall apply to buildings used, erected or structurally altered for any use permitted in the Community Store district, except class "A" or "B" district uses.

19. SCOTIA, N. Y. 1931. Article V, Section 2. (For text, see page 54.)

19a. SAVANNAH, GA. 1925.

SECTION 7. HEIGHT DISTRICTS.

H4 . . . when projecting spurs or isolated units of a U4 or U5 district [equals H4 district] of less than a block in width are totally or partially surrounded by a more restricted height district the height of buildings in said surrounded or partially surrounded districts shall be governed by the rule in force for the more restricted district.

19b. SPOKANE, WASH. 1930.

SECTION 6.

CLASS III, LOCAL BUSINESS DISTRICT.

. . . . . .

Height Limit: Whenever any Class III, Local Business District is located within or is adjacent to, on two or more sides, any Class I, Residential District, the buildings in such Class III, Business District shall be limited to one (1) story in height, ...

20. MODEL CLAUSE. (For text, see page 56.)

21. BUFFALO, N. Y. 1930. Section 17. (For text, see page 58.)

21a. BUFFALO, N. Y. 1930.

SECTION 25. AREA DISTRICTS.

. . . Any building for dwelling purposes erected or used in an "A" area district shall conform to the area regulations of the "B" area district or of the adjoining area district "C" or "D" according as the lot for its greater portion abuts.

22. MODEL CLAUSE. (For text, see page 60.)

22a. ORANGE, N. J. 1922.

SECTION 7. EXCEPTIONS AND SPECIAL PROVISIONS.

. . . . . .

(*l*) Along and within 15 feet of any boundary line between two different kinds of districts, yards or courts, required in the less restricted district, shall be at least equal in

depth or width respectively, at any level, to the depths or widths required for yards or courts in the more restricted district.

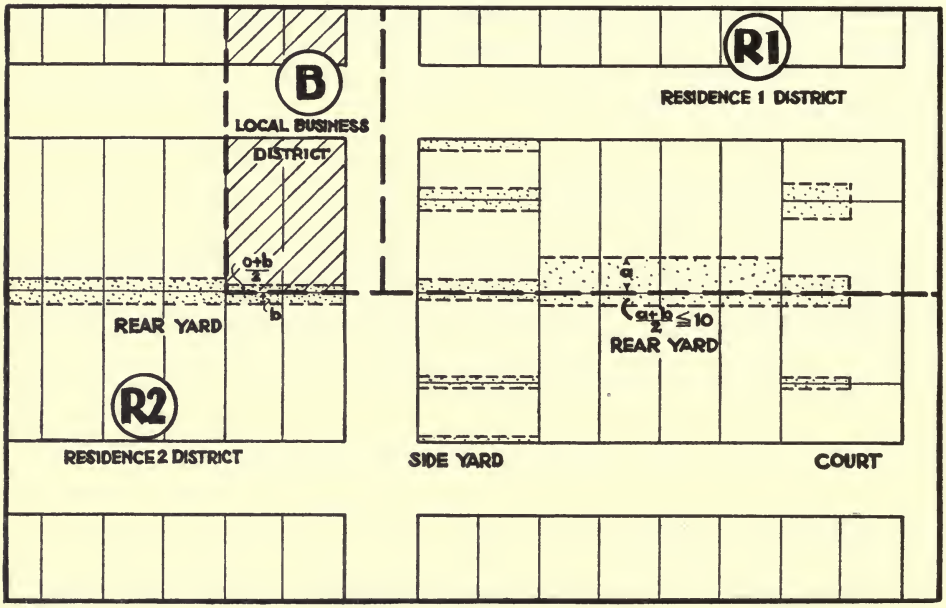
Similar provision in following ordinances:

Westfield, Mass., 1931
Deal, N. J., 1923
Monmouth Beach, N. J., 1930
Roselle Park, N. J., 1921
South Orange, N. J., 1929

22b. Haverhill, Mass. 1925.

Section 7. Definitions and General Provisions.

(*g*) Adjoining Districts. Along and within ten feet of any boundary line between two different kinds of districts, a side yard, rear yard or lot line court, where required in



22b. Yards: on lots adjoining residence district, size to be average for the two districts

the less restricted district, shall be increased in minimum width and depth by an amount equal to one-half of the difference in the required minimum widths and depths for such yards and courts in the two kinds of districts.

Similar provision in following ordinances:

New Bedford, Mass., 1931
West Springfield, Mass., 1929
Worcester, Mass., 1923
Grosse Pointe Farms, Mich., 1928
Elizabeth, N. J., 1931
Madison, N. J., 1922
Nutley, N. J., 1930
Passaic, N. J., 1922
Rutherford, N. J., 1922
Batavia, N. Y., 1926
Mount Vernon, N. Y., 1922
Scarsdale, N. Y., 1926

22c. Glen Cove, N. Y. 1926.

Section 2

General Requirements and Existing Buildings

. . . . . .

Concessions along Boundaries

Along and within ten feet of the boundary line, between any two types of district, rear yards and side yards shall be required in the less restricted district adjacent to and corresponding with required rear yards and side yards in the more restricted Residence District, except that the former shall be at least half as large as the latter in their corresponding least dimensions.

Similar provision in following ordinance:

West Hoboken, N. J., 1922

22d. Wyckoff, N. J. 1930.

Section (1) — Districts

. . . . . .

Along and within ten feet of the boundary line between any two types of districts, open spaces as required in the more restricted district shall be required in the less restricted district, except that the dimensions of such open spaces shall be respectively not less than the mean of the two dimensions required in the two districts involved.

22e. Covington, Ky. 1931.

Section IV — General Provisions

(8) (Yard Requirements along Zoning Boundary Line in Less Restricted District) Along any zoning boundary line any abutting side yard, rear yard or court on a lot adjoining such boundary line in the less restricted district, shall have a minimum width and depth equal to the average of the required minimum widths and depths for such yards and courts in the two districts on either side of such zoning boundary line.

Similar provision in following ordinance:

Lexington, Ky., 1930

22f. Tuckahoe, N. Y. 1930.

Section 11. — Rear Yards —

(*b*) In every Business or Industrial district . . . a ground story where not used for residence purposes may cover the whole lot up to a height above the curb level of twenty (20) feet in Business Districts and thirty (30) feet in Industrial Districts, except that where such ground story rear yard extension abuts on a side or rear yard required in a Residence District, such extension shall set away from the common lot line a distance

not less than one-half (½) of the minimum permitted width of a required side or rear yard as the case may be, on the abutting lot, or at least three (3) feet in any case.

22g. Worcester, Mass. 1923.

Section 14. Side Yards.

(*d*) A side yard or a rear yard shall be provided wherever a lot abuts against a required side yard in any Residence District. If no side or rear yard is otherwise required along such lot line of the former lot, the side yard in question shall be at least one-half as wide as the abutting side yard in the Residence District.

22h. Lawrence, Kan. 1926.

Section 16. Side and Rear Yard Exceptions.

(*d*) Buildings in the U–3, U–4 and U–5 Districts, used for wholly or partially business or industrial purposes, need not provide a side yard, and on corner lots need not provide a rear yard, except that there shall be a rear yard on the ground level for any lot that has a rear line adjoining a Class U–1 or Class U–2 District and except that there shall be a side-yard on the ground level for any lot that has a side line adjoining a Class U–1 or Class U–2 District.

22i. Baldwinsville, N. Y. 1925.

Section 2

General Requirements

. . . . . .

Along the whole boundary line, except a street line, between any Commercial or Manufacturing (Industrial) District (zone) and any Residence District (zone) an open yard at least 5 feet wide shall be required in the Commercial or Manufacturing (Industrial) District (Zone).

Similar provision in following ordinances:

Waltham, Mass., 1925
Ventnor, N. J., 1928 (3 ft.)
East Hampton, N. Y., 1927
Patchogue, N. Y., 1930 (3 ft.)
Oakwood, O., 1925 (3 ft.)
Wyoming, O., 1925 (3 ft.)

22j. Worcester, Mass. 1923.

Section 13. Rear Yards.

(*b*) In every Business "A" District there shall be a rear yard open to the sky unobstructed the full width of every lot and conforming to the provisions above of Sec. 13 (*a*) for Residence "C" Districts . . . and except that a ground story not used for residence purposes may cover the whole lot up to a height of 25 feet above the established or natural grade of the widest street on which the lot abuts, except within ten feet of the boundary line of any Residence District. [Similar provision in Business "B" district]

22k. Emporia, Kan. (Revised ordinances) 1929.

Chapter XVIII — Zoning.

18–209 — Setback in Commercial Districts. Section 9.

No building restricted to the "C" Commercial, "X" Commercial or "Y" Commercial districts may be erected or placed therein nearer than twenty-five (25) feet to real property within the "A" Residence or "B" Residence districts, unless separated therefrom by an alley, in which case the distance shall be not less than twenty (20) feet. No business restricted to the "C" Commercial, "X" Commercial or "Y" Commercial districts may be conducted therein nearer than twenty-five (25) feet to real property within the "A" Residence or "B" Residence districts, unless separated therefrom by an alley, in which case the distance shall be not less than twenty (20) feet.

22m. Sioux Falls, S. D. 1928.

General Volume District Provisions

Section 21.

(*e*) Where the premises in one Volume District are directly across an alley from a less restricted Volume District, all the regulations prescribed by this ordinance pertaining to the distance of a building or part thereof from the center line of an alley for that less restricted district shall be applied to such premises.

23. Louisville, Ky. 1931. Section 15. (For text, see page 62.)

Similar provision in following ordinances:

New Orleans, La., 1929
Springfield, Mo., 1930
Williamsport, Pa., 1931 (15 ft.)
Knoxville, Tenn., 1930
Seattle, Wash., 1923 (8 ft.)
Spokane, Wash., 1930

23a. Lakewood, O. 1924.

Section 19. Rear Yards in Business and Industrial Districts —

. . . No rear yard shall be required for buildings not exceeding 50 feet in height provided, however, that there shall be a rear yard for any lot that has a rear line adjoining a class 1a district.

23b. East Cleveland, O. 1922.

Section 16. Rear Yards in Residence Districts —

. . . In a class U3 or U4 district where the rear line of the lot adjoins a class U1 or U2 district, every building erected shall have a rear yard. The least dimension of such yard shall be at least 10 per cent of the depth of the lot but such least dimension need not be more than 20 feet; provided that such least dimension shall in no case be less than one-fourth of the height of the building.

Similar provision in following ordinances:

Euclid, O., 1927 (20%, 40 ft., etc.)
Mayfield Heights, O., 1929
Shaker Heights, O., 1927
University Heights, O., 1927

23c. Nashua, N. H. 1930.

Section 31 — Rear Yards

(*d*) In any Business District, a building not used in whole or in part as a dwelling shall not require a rear yard except when bordering on a Residence District, in which case a rear yard at least fifteen (15) feet in depth shall be required adjacent to such District.

Similar provision in following ordinance:

Olmsted Falls, O., 1928

23d. Grosse Pointe, Mich. 1927.

Section VIII — Commercial Districts.

(*E*) Rear Yards. In a Commercial District there shall be a rear yard across the entire width of each lot, except that where the rear of a lot abuts upon another lot in a Commercial District the rear yard may be omitted for all buildings or portions of buildings not used for dwelling purposes.

23e. Thomasville, N. C. 1930.

Section 30. — Rear Yards

(*f*) In a Local Business District, a building not used in whole or in part as a dwelling shall not require a rear yard except when bordering on a Residence District, in which case a rear yard equivalent in depth to at least fifteen (15) per cent of the depth of lot shall be required adjacent to such District. Such rear yard need not exceed fifteen (15) feet in depth.

Similar provision in following ordinance:

Canton, O., 1929

23f. Birmingham, Ala. 1926.

Article VIII — Application of Area Regulations

Section 35 — General

(*f*) In a Commercial District located within a 35-Foot or 45-Foot Height and Area District, a building not used in whole or in part as a dwelling shall not require a rear yard except when bordering on a Residence District, in which case a rear yard at least fifteen (15) feet in depth shall be required adjacent to such District.

Similar provision in following ordinance:

Monessen, Pa., 1928

24. Ossining, Town of, N. Y. 1930. Section 10 (*a*), (*b*) (*2*). (For text, see page 64.)

Similar provision in following ordinances:

Bayville, N. Y., 1930
Irvington, N. Y., 1930
Ossining (Village), N. Y., 1931
Tarrytown, N. Y., 1930

24a. Hillside, N. J. 1931.

Article 18

Rear Yards

F. Within any Business "C" or "B" or Industrial District. . . . On corner lots which are not adjacent to residential districts and where no part of the building is used for residential purposes no rear yard is required.

24b. Covington, Ky. 1931.

Section VIII — Business "A" Districts

(*E*) Rear Yards —

In every Business "A" District there shall be a rear yard on every lot except that a non-residence building on a corner lot not abutting in the rear on a Residence District or on such parts of any lot as may be within 50 feet of any street lot line, need have no rear yard. [Similar provisions in Business "B," Industrial "A," and Industrial "B" districts]

24c. Glen Cove, N. Y. 1926.

Section 6. Business Districts

. . . . . .

Rear Yards

. . . No rear yard shall be required within 80 feet of any street except for such area as may lie within ten feet of any required yard or court in a Residence District. [Same provision in Industrial Districts]

24d. Kansas City, Mo. 1930.

Section 17. Rear Yards in Business and Industrial Districts.

. . . no rear yard shall be required within 55 feet of the nearest street nor on a corner lot, nor on a portion of a corner lot that is back to back with a corner lot. Provided however, that there shall be a rear yard on the ground level for any lot that has a rear line adjoining a class U–1 or class U–2 district.

24e. Norfolk, Va. 1924.

Section 13. Rear Yards.

(*b*) Except as may be otherwise provided in this sub-section 13 (*b*), in every Business and Industrial District there shall be a rear yard the full width of every lot, these rear yards to have depth of at least 10 feet for the first 45 feet above the controlling grade, and on any horizontal plane above 45 feet, the depth shall be increased two inches for each foot of height above 45 feet; provided that on a corner lot a rear yard shall not be required within 70 feet of the side streets, except where the rear line abuts any side line of a lot in a Residence District there shall be a rear yard of at least one-half the required depth, but in no case less than 5 feet deep.

24f. Williamsport, Pa. 1931.

Section 35. Accessory Buildings

(*b*) In any Residence District accessory buildings on a corner lot the rear line of which is the side line of another lot shall not be closer to the side street than the depth of front yard required in the District in which such adjoining lot is situated. Such accessory buildings shall also be at least five (5) feet from said common lot line, unless the distance from the side street to the building be at least twenty (20) feet greater than the required depth of front yard in said District.

25. Mount Kisco, N. Y. 1928. Section 14 (*b*). (For text, see page 64.)

Similar provision in following ordinances:

Birmingham, Ala., 1926
Tucson, Ariz., 1930
Wichita, Kan., 1932
Pittsfield, Mass., 1931
Nashua, N. H., 1930
Dover, N. J., 1929
Hillside, N. J., 1931
Elmira, N. Y., 1930
Ossining, Town of, N. Y., 1930
Ossining (Village), N. Y., 1931
Tarrytown, N. Y., 1930
Chapel Hill, N. C., 1928
Fayetteville, N. C., 1929
Goldsboro, N. C., 1930
High Point, N. C., 1928
Rocky Mount, N. C., 1928
Thomasville, N. C., 1930
Olmsted Falls, O., 1928
Bethlehem, Pa., 1926
Easton, Pa., 1928
Johnstown, Pa., 1926
New Castle, Pa., 1925
South Williamsport, Pa., 1931
Williamsport, Pa., 1931
Spokane, Wash., 1930

25a. Greensboro, N. C. 1930.

Section 15. Side Yards.

(3) In Business and Industrial Districts, along any boundary line between such districts and any Residence or Apartment District, such boundary line being not a street line, a side yard shall be required, which shall conform to the requirements for a side yard on the other side of the district boundary.

Similar provision in following ordinances:

Lynchburg, Va., 1931
Staunton, Va., 1927

25b. Ogden, Utah. 1931.

Section 10. Regulations.

(*c*) Side Yards.

. . . . . .

In the case of any lot, where the boundary line of the lot is common with the boundary of a district of a more restricted class, then a side yard of a width equal to that required for maximum side yards in the adjoining district shall be required on that side of the yard adjacent to the common boundary.

25c. Westerville, O. 1928.

Section 19. Yards in Business Districts.

Where a business district is entirely surrounded by residence districts and the greatest dimension of the area included in such business district does not exceed 400 feet, the regulations above provided for front and side yards and front yard lines in residence districts shall apply to such business districts except that no side yard shall be required along any interior lot line which is adjacent to property zoned for business or industrial use.

25d. Canton, O. 1929.

Section 35 — Side Yards

(*c*) In any Business or Industrial District, a building other than a dwelling shall not require a side yard except when bordering on a Residence District and not separated therefrom by a street or alley, in which case a side yard shall be provided adjacent to such District and equal in width to that required therein.

25e. Jackson, Mich. 1928.

Section 14–A. (As added July 12, 1927)

. . . . . .

Section (*a*)

. . . in the special Commercial District . . . no side yards shall be required excepting where the proposed building is adjacent to a boundary of the residence district that the side yard regulations of the "A" Height and Area District shall apply.

25f. Salt Lake City, Utah. 1927.

Section 11. Side Yards.

. . . . . .

In all Residential "C" Districts side yards are not required, except that whenever the boundary line of a Residential "C" District forms a common boundary with a Residential "A," "B" or "B–2" District, then a side yard of a width equal to that required for maximum side yards in the adjoining district shall be required on that side adjacent to the common boundary.

Similar provision in following ordinance:

Seattle, Wash., 1923

25g. Memphis, Tenn. 1929 (As amended, 1930).

Section 16. Height and Area District Exceptions

(*g*) Where all the property on one side of a street between two intersecting streets is zoned "C" Commercial, "D" Industrial or "E" Unrestricted and "A," "B" or "C" Height and Area, and a permit for a commercial or industrial building is applied for the

requirements for side yards may be waived, but if a side yard be provided it shall have minimum width as required.

25h. Seaside Park, N. J. 1930.

Section 14. Side Yards.

(*a*) . . . .

(2) Within any "Commercial" or "Industrial" District a side yard is required, of a width as specified in the immediately preceding sub-sections, along any side lot line which serves as a boundary line between that lot and any "Residence" or "Hotel" District, except that for a lot 50 feet or more wide the added increment need not exceed 2 inches per foot.

Similar provision in following ordinances:

Longport, N. J., 1929
Bellport, N. Y., 1929
Irvington, N. Y., 1930

25i. Grosse Pointe, Mich. 1927.

Section VIII — Commercial Districts

(*C*) Side Yards. In a Commercial District side yards are not required along any interior side lot line, except that where a side lot line is the boundary line between a Commercial District and a Residence District a side yard shall be provided within the Commercial District of a width equal to one-half the width prescribed for side yards for a building of the same size and height in the adjoining district.

26. Davenport, Ia. 1927. Section 17. (For text, see page 66.)

Similar provision in following ordinance:

Sioux Falls, S. D., 1928

26a. Lansing, Mich. 1929.

Section 10. — "A" Height and Area District.

. . . . . .

Side Yard: There shall be a side yard on each side of the lot of not less than three (3) feet in width, provided, however, that buildings used for commercial purposes and located in a "C" commercial district may waive this side yard requirement, except on the side adjacent to "A" residence property.

26b. Arlington County, Va. 1930.

Section 12: Side Yards

6. In any local or general business, or light or heavy industrial district along any boundary line between such districts and residence districts, such boundary line being

not a street line, a side yard shall be required which shall be 10 per cent of the lot width, provided that no such side yard shall be less than three (3) feet in width and shall not be required to be more than ten (10) feet in width.

Similar provision in following ordinance:

CHARLOTTESVILLE, VA., 1929

26c. VINCENNES, IND. 1929.

SECTION 5. APARTMENT DISTRICT.

(*c*) SIDE YARD: . . . In connection with an A [Apartment House] use a side yard not less in width than 5 feet, to which shall be added one foot for each 10 feet in the height of the building in excess of 20 feet, shall be required along that side of a lot which adjoins a Residence district. [Similar provision in Business Districts]

Similar provision in following ordinance:

FORT WAYNE, IND., 1928

26d. FORT WAYNE, IND. 1928.

SECTION 7. D DISTRICT.

(*c*) SIDE YARD: There shall be a side yard on one side of every building. The side yard shall be not less in width than 4 feet, to which shall be added one foot for each 10 feet in the height of the building in excess of 20 feet. Where a side line of a lot adjoins an A or B district the required side yard shall be along that side line.

26e. PEORIA, ILL. 1931. (Illustrated on page 70.)

SECTION 14. HEIGHT AND AREA REGULATIONS

"F" COMMERCIAL AND "I" LIGHT INDUSTRIAL DISTRICTS

. . . . . .

SIDE YARD: Not required except on that side of a lot abutting upon the side of a lot zoned for dwelling or apartment purposes in which case there shall be a side yard of not less than three (3) feet. [Same in "G" Commercial and "J" and "K" Industrial Districts]

Similar provision in following ordinances:

SACRAMENTO, CAL., 1929 (5 ft.)
LOUISVILLE, KY., 1931 (4 ft.)
NEW ORLEANS, LA., 1929
EVERETT, MASS., 1926 (4 ft.)
DULUTH, MINN., 1927 (5 ft.)
KIRKWOOD, MO., 1928
SPRINGFIELD, MO., 1930
CHATTANOOGA, TENN., 1927 (5 ft.)

26f. EUCLID, O. 1927.

SECTION 20–A. SIDE AND REAR YARDS IN BUSINESS DISTRICTS.

In a class U4, U5 or U6 district, where the side line of the lot adjoins a class U1, U2 or U3 district, no building, — unless located 50 feet or more back from the street line, — shall be erected within 10 feet of such adjoining class U1, U2 or U3 district.

Similar provision in following ordinances:

Kent, O., 1931
Mayfield Heights, O., 1929
Shaker Heights, O., 1927
University Heights, O., 1927

26g. North Caldwell, N. J. 1930.

Section 8. Business Districts.

(*d*) Side Yards.

(1) Within any business district a side yard is required of a minimum width of ten feet (10′) along any side lot line serving as a boundary line between that lot and any residence district, and for each foot that the building or structure exceeds a height of sixty feet (60′) there shall be added to the required width of each such yard three inches (3″). [Similar provision for Commercial Districts]

Similar provision in following ordinance:

Somerville, N. J., 1930

26h. Hillsdale, N. J. 1929.

Article V.

Section 1. General.

J. Wherever a Commercial or an Industrial District abuts directly, that is, without the intervention of a street or alley on a Residential District, there shall be provided a side yard not less than fifteen feet (15 ft.) in width along the side of the lot or lots in such Commercial or Industrial District immediately adjacent to such Residential District.

Similar provision in following ordinances:

Lynn, Mass., 1929 (7½ ft.)
Duluth, Minn., 1927 (5 ft.)
Ramapo, N. Y., 1930
Southampton, N. Y., 1930

26i. Somerville, N. J. 1930.

Section 8. Industrial Districts.

(*c*) Side Yards.

Within any industrial district, no side yard is required where the building is not used in any part for residence or sleeping purposes unless said building is erected on a lot, the side lot line of which serves as a boundary line between that lot and any business or residence district, in which case the minimum width of the side yard shall be twenty (20) feet.

27. Long Beach, Cal. 1929. Section 4 (*e*). (For text, see page 67.)

Similar provision in following ordinances:

Culver City, Cal., 1926
Delano, Cal., 1927

27a. Covington, Ky. 1931.

Section XIII — Garage and Filling Stations.

(*B*) Residence Districts —

1. Private Garages.

(*d*) In any Residence District no part of any garage situated within 60 feet of any street lot line shall extend into any side yard space as required for a two story building where it borders on a side lot line of an adjoining lot located in a Residence District, ...

28. Boulder, Colo. 1928. Section 6. (For text, see page 68.)

Similar provision in following ordinances:

Wichita, Kan., 1932
Grand Haven, Mich., 1923
Duluth, Minn., 1927
St. Paul, Minn., 1926
Omaha, Neb., 1924
Ogden, Utah, 1931
Kenosha, Wis., 1928
Neenah, Wis., 1930

28a. Evansville, Ind. 1925.

Section 12. "C" Height and Area District.

. . . . . .

Front Yard: . . . Where the frontage on one side of the street between two intersecting streets is located in the "A" and "C" Height and Area Districts the Front Yard requirement in the "A" Height and Area District shall apply to the entire frontage. [Similar provisions for "D" and "E" districts]

Similar provision in following ordinances:

Cedar Rapids, Ia., 1926
Council Bluffs, Ia., 1927
Des Moines, Ia., 1926
Sioux City, Ia., 1931
Ottawa Hills, O., 1928

28b. Riverside, Cal. 1929.

Section 10. Building Setback Lines. . . .

(*a*) In Zones B2 or Retail Business Districts, the front building line shall be the same as the front building lines of the zones adjoining such B2 Zone on the same side of the street and, if two or more zones having different front building lines thus adjoin any such B2 Zone, the one having the greater setback from the street shall govern.

28c. Kansas City, Mo. 1930.

Section 19. Front Yards.

. . . Where a portion of a class U–3 district lies within the same block and fronts upon the same street with a portion of a class U–1 or class U–2 district, and no lot within said portion of such class U–3 district is occupied by a building with a front yard of less depth than that required under the provisions of this section applicable to such portion of such class U–1 or class U–2 district, then in such case the provisions of this section applicable to said portion of such class U–1 or class U–2 district shall likewise be applicable to said portion of such class U–3 district.

28d. Sacramento, Cal. 1929.

Section 14.

"D" Height and Area Districts.

. . . . . .

Front Yard: . . . Where the frontage on one side of the Street between two intersecting streets is located in the Limited Retail District and a Dwelling District, the front yard requirement in the Dwelling District shall apply to the Limited Retail District, including the sideyard on the street side of a reversed corner lot. Where a reversed corner lot or lots zoned for Limited Retail purposes sides upon a lot zoned for Dwelling purposes, the front yard requirement of the lots zoned for Dwelling purposes shall apply to the reversed corner lots.

Similar provision (first sentence only) in following ordinance:

Knoxville, Tenn., 1930

28e. New Orleans, La. 1929.

Section 15. Height & Area Regulations.

"E" Commercial District:

. . . . . .

Front Yard: . . . Where the frontage on the same side of the street between two adjacent intersecting streets is located in a Commercial District and Residence or Apartment District, the front yard requirement of the Residence or Apartment District shall apply to the entire frontage on that same side except that this regulation shall not be so interpreted as to reduce the buildable width of a corner lot in separate ownership and of record, or as shown by existing contract of purchase at the time of the passage of this ordinance, to less than twenty-four (24) feet. [Same in "F" and "G" Commercial, "I" and "J" Industrial, and "L" Unrestricted Districts]

28f. Peoria, Ill. 1931.

Section 15. Height and Area Regulations

"G" Commercial Districts

. . . . . .

Front Yard: . . . Where the frontage on one side of the street between two intersecting streets is located in the Commercial District, and a dwelling or apartment district, the front yard requirement in the dwelling or apartment district shall apply to Commercial District, provided, however, that no side yard shall be required on the street side of any corner lot used for business purposes.

Similar provision in following ordinance:

Louisville, Ky., 1931

28g. Norfolk, Va. 1924.

Section 12. Setback Building Lines.

(*f*) When any Business "A" District lies within the same block and along the same street with a Residence District, it shall observe the same set-back building lines on such street as the Residence District except that where the long side of a corner lot lies along the street in question, no part of any building on such lot shall be required to set back further than above prescribed in this Section 12 for the side of a corner lot in Residence "C" Districts. Nothing herein shall prevent a ground story store from projecting to the permitted unenclosed porch line of the adjoining Residence District.

28h. St. Paul, Minn. 1926.

Article III. Set Backs.

Section 16.

f. . . .

Where a "C" residence district occupies part of a block with an "A" residence district or "B" residence district, the street wall line provision of this section shall apply to that part of the "C" residence within that block.

28i. Riverside, Cal. 1929.

Section 10. Building Set-back Lines.

(*c*) In Zones C2 or Church Districts the front building line shall be the same as that of the zone adjoining such C2 Zone on the same side of the street.

28j. Minneapolis, Minn. 1924.

Density District Exceptions

Section 19.

The foregoing requirements in the Density District shall be subject to the following exceptions and regulations:

9. Where the frontage on one side of a street between two (2) intersecting streets is located partly in a Residence or Multiple Dwelling District and partly in a Commercial District and the Commercial District is also located in a Two and One-half (2½) Story Height District any setback regulations required in such residence or Multiple Dwelling Districts shall also be required in the Commercial District.

Similar provision in following ordinance:

East Moline, Ill., 1929

28k. North Providence, R. I. 1930.

Section 18. Front Yards in Business Districts.

Where a business district is entirely surrounded by residence districts and the greatest

dimension of the area included in such business district does not exceed 600 feet the regulations above provided for front yards and front yard lines in residence districts shall apply to such business districts.

Similar provision in following ordinances:

Denver, Colo., 1930 (2000 ft. frontage)
Anderson, Ind., 1923 (400 ft.)
Westerville, O., 1928
Woonsocket, R. I., 1923
Two Rivers, Wis., 1926

28m. Sioux City, Ia. 1931.

Section VI. "D" Commercial District:

. . . . . .

Front Yard. . . .

The front yard of an isolated portion of the "D" District shall conform to the requirements of the District by which it is surrounded, and if located between Districts having different restrictions, the regulations of the lesser restricted District shall govern.

28n. Cleveland, O. 1929.

. . . . . .

Front Yards

Section 1281–14.

(*c*) Local Retail Business Districts. Where a Retail Business district is surrounded by Residence districts, or where it projects at an angle from a non-Residence district into a Residence district, and the greatest dimension of the area included in such Retail Business district does not exceed 900 feet, the regulations above provided for front yard lines and side street yard lines in Residence districts shall apply also to such Retail Business districts. The subsequent extension of the district beyond the 900-foot limit shall not serve to remove automatically the said front yard line requirements.

Similar provision in following ordinance:

Parma, O., 1930

28p. Springfield, O. 1931.

Section 19. (Front Yards in Business Districts.)

Where a business district is practically surrounded by residence districts and the greatest dimension of the area included in such business district does not exceed 600 feet the regulations above provided for front yards and front yard lines in residence districts shall apply to such business district. The front yard line of a corner lot that is zoned for business and abuts on a business street on one side, but faces a residence street and adjoins a residence district on the other side shall be the front yard line of the adjoining residence district.

28q. Worcester, Mass. 1923.

Section 12. Setback Building Lines.

(*e*) Where any Business "A" District extends less than 500 feet, intersecting streets included, along any street between two Residence Districts, all buildings in such Business "A" District on such street frontage shall set back from the street lot line a distance equal to the average of the setback distances required for the ground story parts of buildings in the continuing streets in such two Residence Districts and within 200 feet of the above Business "A" District or within the next intersecting streets, if nearer. Within 100 feet of the intersection of such Business "A" District with any street in which no setback building line is required the herein provided setback building line shall not be required.

28r. Lynchburg, Va. 1931.

Section 461. Setback Building Lines.

9. In any Business "G" District, Business "B" District, or Industrial "R" District, which within a block is adjacent on both sides to any Residence "O" District or Residence "V" District the set-back line shall be established respectively as provided for Residence "O" Districts or Residence "V" Districts in this section. . . .

29. Peoria, Ill. 1931. Section 13. (For text, see page 71.)

Similar provision in following ordinances:

Louisville, Ky., 1931 Springfield, Mo., 1930

29a. Cleveland, O. 1929.

. . . . . .

Front Yards

Section 1281–14.

(*b*) Corner Lots.

4. At the intersection of a Residence street with a street on which other than Residence uses are also permitted, where the corner and / or succeeding lots were, at the time of the passage of this Subdivision, platted to face the Residence street and not more than the first three such lots aggregating a frontage not to exceed 150 feet, are included within the less restricted district, the front yard line for the lots included with the less restricted district shall be a continuation of the front yard line of the residence portion of the block.

Similar provision in following ordinance:

Parma, O., 1930

29b. Patterson, Cal. 1930.

Section 5.

Business districts of Class III are hereby established . . . .

. . . no grease rack, washing rack, or accessory buildings shall be installed or used in

connection with a retail gasoline or oil supply station, where the same is located immediately next to a residence district, unless such grease rack, washing rack or accessory buildings are set back from all street frontages as far as the front line of the adjacent residences.

29c. Dayton, O. 1932.

Section 209. General Provisions —

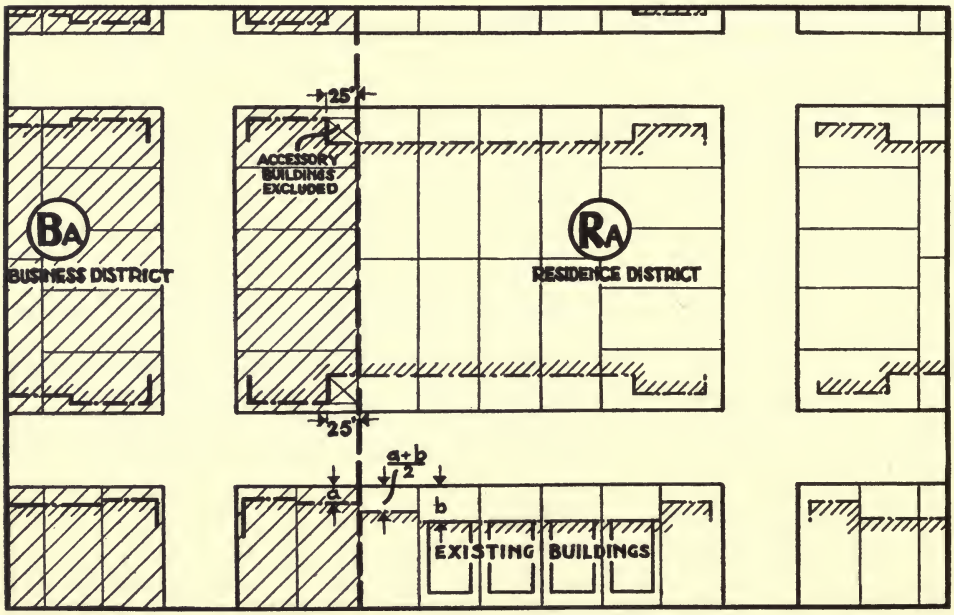
(*d*) Front Yards.

3. Where a corner lot in any district adjoins a lot in any Residence District no part of any building within 25 feet of the common lot line shall project in front of the setback building line prescribed in this Ordinance for the side street which such common lot line intersects, provided, however, that for each foot that such lot is less than 50 feet wide at the time of enactment of this Ordinance, ten inches shall be deducted from the setback so required, and further provided that no such building or part thereof shall be required to set back from the street lot line a greater distance than 30 feet.

29d. Norwood, O. 1929.

Section 11. Front Yard Setback Building Lines

(*g*) Where a corner lot adjoins a lot in a Residence District, no part of any accessory



29d. Setback: required for accessory buildings on part of business corner lot adjoining residence

35b. Setback: depth on lot adjoining less restricted district to be average of existing buildings

building within 25 feet of the common lot line shall project in front of the setback building line prescribed in this section for the side street which such common lot line intersects; except that in the case of a narrow corner lot where such regulation would give an impracticable depth to a private garage or stable, such garage or stable may project beyond the above setback building line only far enough to give practicable depth, but in no such case shall any part of such garage project beyond the building to which it is accessory.

Similar provision in following ordinances:

Covington, Ky., 1931
Lexington, Ky., 1930
St. Bernard, O., 1930

29e. Williamsport, Pa. 1931.

Section 35. Accessory Buildings

(*b*) In any Residence District accessory buildings on a corner lot the rear line of which is the side line of another lot shall not be closer to the side street than the depth of front yard required in the District in which such adjoining lot is situated.

30. Lake Bluff, Ill. 1924. Section XI (*c*). (For text, see page 71.)

Similar provision in following ordinances:

Sacramento, Cal., 1929
Orlando, Fla., 1927
Homewood, Ill., 1929
Mundelein, Ill., 1925
North Chicago, Ill., 1926
Peoria, Ill., 1931
Roselle, Ill., 1931
Waukegan, Ill., 1924
Western Springs, Ill., 1923
Evansville, Ind., 1925
Mishawaka, Ind., 1931
South Bend, Ind., 1928
Arkansas City, Kan., 1931
Hays, Kan., 1931
Herington, Kan., 1927
Louisville, Ky., 1931
Kirkwood, Mo., 1928
Springfield, Mo., 1930
Utica, N. Y., 1931
Thomasville, N. C., 1930
Winston-Salem, N. C., 1930
Grand Forks, N. D., 1928
Chattanooga, Tenn., 1927
Charlottesville, Va., 1929
South Milwaukee, Wis., 1931

30a. Alton, Ill. 1928.

Section 11. Building Line Set Back.

(*c*) Where the continuation of the front line of one or more lots in a Business District forms the front line of one or more lots in the same block and in a Residence District, the buildings in the Business District shall, along that frontage, conform to the set back requirements of the adjoining Residence District, but no business building shall be required by this section to set back more than fifteen (15) feet from the street line nor more than the set back already established by existing permanent business buildings on the frontage in question.

Similar provision in following ordinances:

Hammond, Ind., 1931
Creston, Ia., 1930 (20 ft.)
Newton, Ia., 1927
Lynn, Mass., 1929 (10 ft.)

30b. Grosse Pointe, Mich. 1927 (As amended, 1932).

Section VII. — Local Business Districts.

(*B*) Front Yards. In a Local Business District front yards are not required, except where the front lot line of lots in such district is substantially a continuation without intervening streets, of the front lot line of a lot or lots in an adjoining Residence District, or of the side lot line of a lot or lots in an adjoining Residence A District, in which case there shall be a front yard not less than ten feet in depth on each such lot in the Local Business District.

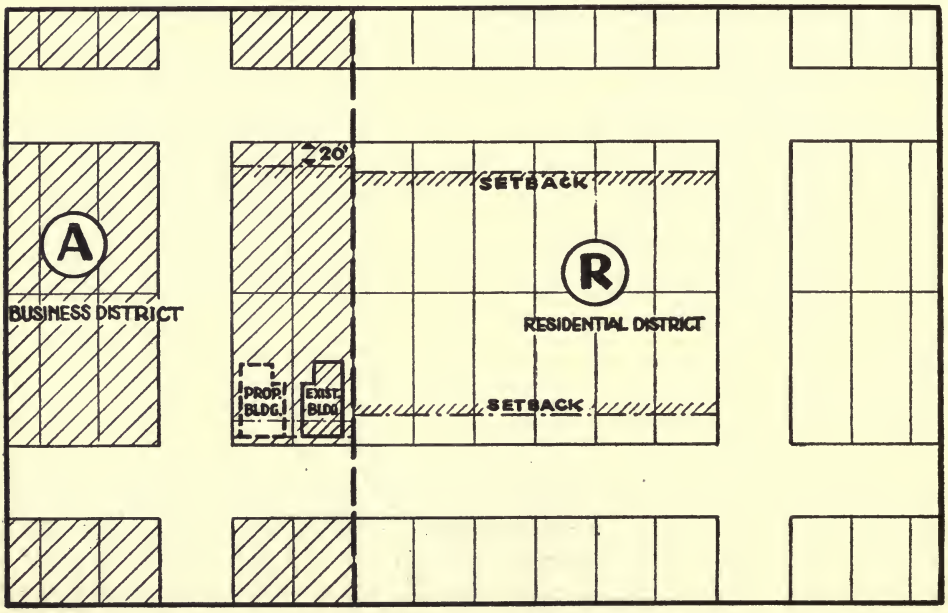
Similar provision in following ordinance:

University City, Mo., 1922 (setback 30 ft.)

30c. Denver, Colo. 1930.

Section 20. Front Yards in Business and Commercial Districts.

(*C*) Where the short side of a block is in a business "A," business "B" or business "C" district and the remainder of such block is in a residence district, there shall be a



30c. Setback: on business lot on short side of block adjoining residence to have special depth

front yard 20 feet in depth along the business district frontage on the long side of such block, if in a business "A" district, and 15 feet in depth if in a business "B" district,

and 10 feet in depth if in a business "C" district. Provided that no building shall be required to set back from the street line further than any existing building between such proposed building and the line of such residence district.

30d. Altoona, Pa. 1928.

Section 12. Local Business District Uses.

6. In any separate unit of an LB District as described in paragraph 4 above [of small area, etc.], all buildings or structures used in whole or in part for trade, business or commercial purposes shall be placed back from the street lines not less than ten feet and from the alley lines not less than four feet.

31. Ossining, Town of, N. Y. 1930. Section 9 (*a*). (For text, see page 73.)

Similar provision in following ordinances:

La Grange Park, Ill., 1925
Mundelein, Ill., 1925
North Chicago, Ill., 1926
Western Springs, Ill., 1923
Red Oak, Ia., 1925
Dover, N. J., 1929
Hillside, N. J., 1931
Seaside Park, N. J., 1930
Bellport, N. Y., 1929
Elmira, N. Y., 1930
Ossining (Village), N. Y., 1931
Tarrytown, N. Y., 1930
Fayetteville, N. C., 1929
Goldsboro, N. C., 1930
Greensboro, N. C., 1930
High Point, N. C., 1928
Rocky Mount, N. C., 1928
Lynchburg, Va., 1931

31a. East Longmeadow, Mass. 1928.

Section 3 — General

(*j*) Business Adjacent to Residence: — In any Business District every building which is within fifty (50) feet of a Residence District shall set back from the street line a distance equal to at least one-half of that setback required for ground story parts of a principal building on the adjoining lot in the Residence District.

Similar provision in following ordinances:

Westfield, Mass., 1931
Worcester, Mass., 1923 (25 ft.)

31b. Fort Atkinson, Wis. 1931.

Article X. Front Building Line Setback.

(*b*) Where the building line requirements of this ordinance differ for two (2) adjoining lots, or where the side yard of one lot is less than the front yard required along the same street for an adjoining lot, the side line of the second lot being formed partially or wholly by the rear line of the first mentioned lot, the lot on which the deeper building line is required shall be modified for a distance of not more than sixty-six (66) feet from the line of the adjoining lot, to lie halfway between the lesser and the greater of the two required building lines.

31c. Glen Cove, N. Y. 1926.

Section 6.

Business Districts.

. . . . . .

Setbacks

Any part of any building in any Business District within 25 feet along a street from any Residence District shall set back from such street a distance equal to at least one-half of that required for ground story parts of a building on the adjoining lot in the Residence District, but no such building shall be required to set back further from the street line than any existing building between it and the Residence District.

31d. Mason City, Ia. 1928.

Section 16 — Front Yards.

(*h*) Where any "A" District or any "B" District adjoining any Business, Commercial, or Industrial District, a special front yard not less than fifteen (15) feet in depth shall be provided for a distance of at least twenty-five (25) feet from any such residence district; . . . .

31e. East Cleveland, O. 1922.

Section 16. Rear Yards in Residence Districts —

. . . In a class U3 or U4 district where the side line of the lot adjoins a class U1 or U2 district, no building unless located 10 feet or more back from the street line shall be erected within 10 feet of such adjoining class U1 or U2 district.

31f. Sioux City, Ia. 1931.

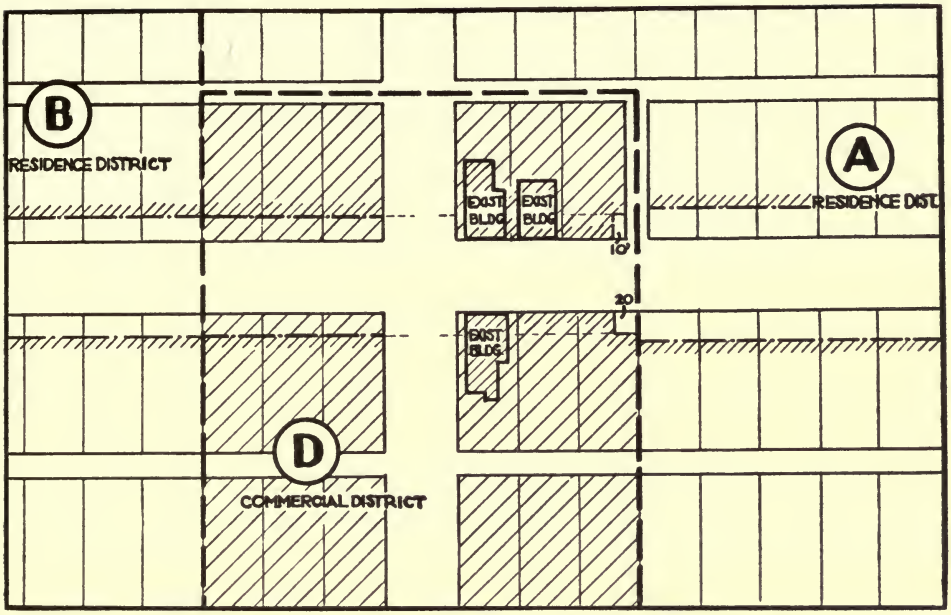
Section VI. "D" Commercial District:

. . . . . .

Front Yard.

. . . . . .

Where a lot or lots in a block in a "D" District are already improved for commercial purposes without a set-back, other lots within the block, if within the district, may be improved by the construction thereon of a building or buildings, other than single or two-family residences, without set-back save as to the twenty (20) feet of the lot adjacent to the nearest more restricted district. If an alley intervenes between the property thus improved for commercial or multiple dwelling purposes and property in a more restricted district, then the set-back in the "D" District shall apply only to the adjacent ten (10) feet of the latter District.



31f. Setback: on business lot adjoining residence but in block with existing buildings not set back, to have setback for limited distance only

31g. Lexington, Ky. 1930.

Section VIII — Business "A" Districts

(*D*) Side Yards —

In any Business "A" District no side yards are required except . . . and except that along a side street lot line of a corner lot abutting in the rear on a Residence District there shall be a side yard the least width of which shall be five feet in case such lot is back to back with another lot and ten feet in any other case.

Similar provision in following ordinance:

Covington, Ky., 1931

32. Glencoe, Ill. 1931. Article X (*e*). (For text, see page 74.)

Similar provision in following ordinance:

Highland Park, Ill., 1930

32a. Chicago, Ill. 1927.

Section 22. Building Lines.

(*e*) Along the side of a corner lot in a Residence district or Apartment district which

is not known as the front line and which generally is the side having the greatest dimension along a street line and which side line is in the same block with a lot or lots whose street line is the front line, no building shall be erected whose street wall is nearer the street at the rear end of such side line than the established building line in the block and for each 1 foot that the building or part thereof is distant from the adjoining lot line exclusive of the width of an intervening alley, if any, such building or such part thereof may be erected 1 foot nearer to the street line. The provisions of this paragraph shall apply to a Commercial district which is also in a 1st or 2nd Volume district and which is in the same block with a Residence district or Apartment district.

33. Wheaton, Ill. 1929. Section X (*b*). (For text, see page 76.)

33a. Lincoln, Neb. 1929.

Section 12.

. . . Where property in the same block and on the same side of the street is partly within a Local Business District and partly within an Apartment District, the enclosure wall may be placed as provided for in Section 11 of this ordinance covering Apartment Districts [6 ft. back instead of 20 ft.].

33b. Birmingham, Ala. 1926.

Article IX — Exceptions to Area Regulations

Section 36 — General

(*c*) In a Commercial District, located within a Fourth 35-Foot, Second 45-Foot or First 100-Foot Height and Area District, the depth of front yard required for a building hereafter erected or altered need not exceed that required for buildings in an adjacent Residence District, located in the same block and fronting on the same street.

Similar provision in following ordinance:

Monessen, Pa., 1928

34. Sheboygan, Wis. 1925. Section III, 6 (*b*). (For text, see page 76.)

Similar provision in following ordinances:

Rockford, Ill., 1927
Roselle, Ill., 1931
Waukegan, Ill., 1924
Zion, Ill., 1929
Arkansas City, Kan., 1931
Great Falls, Mont., 1930
Parma, O., 1930

34a. Glen Ellyn, Ill. 1923.

Section 9. — Building Line Set Back.

(*b*) Where the rear line or side line of a lot in a business or commercial district forms part of the side line of a lot restricted to residence use, the residence lot shall be for a dis-

tance of fifty feet from the rear or side line of the business lot required to observe only half the established setback for the residence section of the block.

Similar provision in following ordinances:

Alton, Ill., 1928
Downers Grove, Ill., 1925
La Grange, Ill., 1930
Lake Bluff, Ill., 1924
Libertyville, Ill., 1925
Marengo, Ill., 1928
Mount Prospect, Ill., 1923
Niles Center, Ill., 1926
Hammond, Ind., 1931
Ames, Ia., 1930
Creston, Ia., 1930
Harlan, Ia., 1927
Mason City, Ia., 1928
Newton, Ia., 1927
Sault Ste. Marie, Mich., 1929

34b. Rockford, Ill. 1923.

Section III. — Area Regulations

6. Building Line Setback:

(*c*) Where the rear line of any lot forms part of the front half of the side line of an adjacent lot, such adjacent lot shall be required to observe a setback of only one-half the established setback of the remaining lots fronting on the same street with it in the same block, but this setback shall not be required to be greater than ten feet in any case.

Similar provision in following ordinance:

Waukegan, Ill., 1924

34c. Glencoe, Ill. 1931. (Illustrated on page 74.)

Article X. Building Line Setback.

(*f*) Where the building line requirements of this ordinance differ for two (2) adjoining lots, or where the side yard of one (1) lot is less than the front yard required along the same street for an adjoining lot, the side line of the second lot being formed partially or wholly by the rear line of the first mentioned lot, the lot on which the deeper building line is required shall be modified for a distance of not more than sixty (60) feet from the line of the adjoining lot, to lie halfway between the lesser and the greater of the two (2) required building lines.

Similar provision in following ordinance:

Aurora, Ill., 1929

34d. Croton-on-Hudson, N. Y. 1931.

Article Seven.

Provisions Common to Several Districts.

Section A. Exceptions to Yard Requirements.

4. Dwelling Adjacent to "E" or "F" District. Upon a plot in a Residence District abutting upon an "E" or "F" District in which the prescribed depth of the front yard is less than in such Residence District, the depth of front yard need not be greater than the average of depths prescribed for the Residence District and abutting district.

35. Boston, Mass. 1930. Section 13. (For text, see page 77.)

Similar provision in following ordinance:

Lowell, Mass., 1926

35a. Dayton, O. 1932.

Section 209. General Provisions —

(*d*) Front Yards.

1. If on one side of a street within a given block there is a pronounced uniformity in the alignment of existing buildings and in the depths of the front yards in any Residence "A" or "B" District, and the depth is uniformly greater than the depths specified in this Ordinance, a front yard shall be required which shall conform substantially with those provided on the aforementioned adjacent lots, provided, however, that no such building shall be required to be set back from the street lot line a greater distance than 50 feet. This provision shall not apply where the variation in the alignment of existing buildings is greater than six feet.

2. If the established alignment of existing buildings within 100 feet on each side, and within the same or more restricted district and in the same block, is less than the setbacks prescribed in this Ordinance, any building or structure may extend as near the street lot line as the average of such general established alignment but not nearer than ten feet to the street lot line in any case in any Residence District, except on one side of a corner lot.

35b. Norwood, O. 1929. (Illustrated on page 132.)

Section 11. Front Yard Setback Building Lines

(*e*) Exception for Existing Alignment

. . . On an adjoining lot in a more restricted district the required setback shall be the average of the established alignment in the more restricted district and the established setback in the less restricted district.

Similar provision in following ordinance:

St. Bernard, O., 1930

35c. Lexington, Ky. 1930.

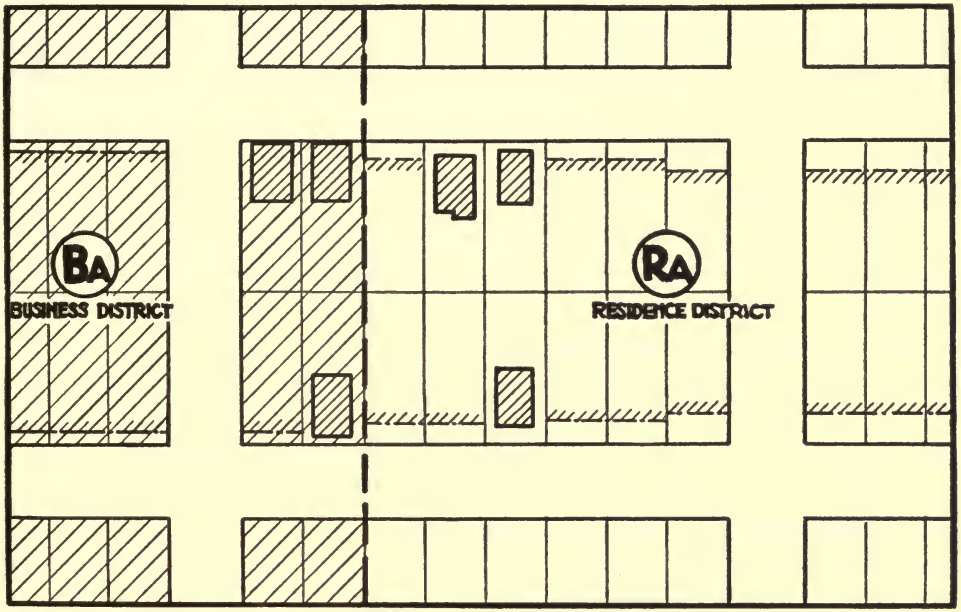
Section XIV — Exceptions and Modifications

. . . . . .

Front Yards —

(2) (Exceptions for Existing Alignment) When the average depth of existing front yards of existing buildings located within one hundred feet on each side of a lot and within the same block and district as such lot, is less than the least front yard depth prescribed for such lot by other provisions of this Ordinance, then, in such case, the depth of the front yard of any building or structure shall not be required to exceed the average of the amount of said otherwise prescribed least depth and the average depth of said existing

front yards; nor shall it be required to exceed the average of said otherwise prescribed least depth and the depth of the front yard of an existing building on a lot immediately adjoining such lot, if shallower, but shall be at least ten feet in any case in any Residence District. . . . In the case of a lot located along a zoning boundary line and lying within the more restricted of the two districts divided by such boundary line, existing buildings within one hundred feet shall have this mitigating effect, and the front yard of a building on such lot may be governed by the average of the least depth otherwise specified in this



35c. Setback: depth on lot adjoining less restricted district to be average of normal setback with that of existing buildings

Ordinance for the district in which such lot is located and the average depth of existing front yards of existing buildings within said one hundred feet and within the adjoining less restricted district; or shall not be required to exceed the average of said otherwise prescribed least depth and the depth of the front yard of an existing building on a lot immediately adjoining such lot, in either district, if shallower.

Similar provision in following ordinance:

COVINGTON, KY., 1931

35d. MONESSEN, PA. 1928.

ARTICLE VIII — APPLICATION OF AREA REGULATIONS

SECTION 29 — FRONT YARDS

(*f*) In a 45-Foot District, where part of the lots fronting on one side of a street between two intersecting streets are within a Business District, and part within a Residence Dis-

trict, a front yard provided for a lot in such Business District need not exceed the least depth already established by any existing building which fronts on the same street as the lot in question and is located between said lot and the adjacent Residence District in the same block.

Similar provision in following ordinance:

CANTON, O., 1929

35e. PENFIELD, N. Y. 1930.

ARTICLE VII

PROVISIONS APPLICABLE TO INDUSTRIAL DISTRICTS

. . . . . .

SECTION 56. FRONT SETBACK.

The front setback of all structures hereafter erected or altered in the industrial districts shall be the same as the adjoining average residential front setback on the same street.

Similar provision in following ordinances:

PITTSFORD (VILLAGE), 1930 PITTSFORD, TOWN OF, N. Y., 1929

36. SCOTIA, N. Y. 1931. Article VI, Section 2. (For text, see page 79.)

36a. MEMPHIS, TENN. 1929 (As amended, 1930).

SECTION 12. "B" HEIGHT AND AREA DISTRICT

. . . . . .

SETBACK: There shall be a setback line [etc.] . . . . Where all the frontage on one side of a street between two intersecting streets is located in a "C" Commercial, "D" Industrial, or "E" Unrestricted District, and a "B" Height and Area District, the setback regulations may be waived. [Same in "C" District]

36b. JACKSON, MICH. 1928.

SECTION 14. HEIGHT AND AREA DISTRICT EXCEPTIONS.

The foregoing requirements in the height and area districts shall be subject to the following exceptions and regulations:

AREA —

Fourth: The setback in the "A" and "B" Height and Area Districts shall be waived where part of the property on one side of the street between two intersecting streets is located in the Commercial District; provided, however, that in outlying commercial districts located in residence or dwelling districts, the setback regulations of the residence or dwelling districts shall apply to the Commercial Districts, except on Cooper street,

Railroad street, Page avenue and South Milwaukee street, where the setback regulations may be waived.

36c. Mishawaka, Ind. 1931.

Section 15.

Height and Area Exceptions.

(*m*) Where the frontage on one side of the street between two intersecting streets is zoned partly as Residence and partly as an "E" Commercial or an "F" Light Industrial District, the "E" Commercial or the "F" Light Industrial District being directly across the street from a "G" or "H" Light Industrial District, no setback shall be required.

TEXT OF PERTINENT LAW CASE

JAMES S. HOLDEN CO. *v.* CONNOR *et al.* (257 MICH. 580)

(as reported in 241 N. W. 915)

Motion No. 227, Supreme Court of Michigan, April 4, 1932.

[Municipal Corporations 601. Zoning ordinance providing for side yard set back on corner lot contiguous to residence district without intervening street, width of yard varying with width of corner lot, held void (Comp. Laws 1929, §§ 2633–2641).]

CLARK, C. J., and MCDONALD and SHARPE, JJ., dissenting.

Appeal from Circuit Court, Wayne County; Ormond F. Hunt, Judge.

Action by the James S. Holden Company against Richard P. Connor and Fred J. Baker, Building Commissioners for the Village of Grosse Pointe, and another. From judgment for defendants, plaintiff appeals.

Reversed, and writ of mandamus issued.

Argued before the Entire Bench.

Wurzer & Wurzer, of Detroit (Louis C. Wurzer, of Detroit, of counsel), for appellant.

Albert E. Meder, Village Atty., of Detroit (Beaumont, Smith & Harris, of Detroit, of counsel), for appellees.

CLARK, C. J. (dissenting).

Plaintiff has appealed from judgment in mandamus to compel defendants, the village of Grosse Pointe and its building commissioners and clerk, to issue a building permit, refused under a zoning ordinance.

The question is whether the section of the ordinance may be sustained as a valid exercise of police power under the enabling act, section 2634, Comp. Laws 1929.

On the shore of Lake St. Clair, and in close proximity to Detroit, are a number of municipalities, among them defendant village, all residential in character. The defendant village contains 686 acres and has a population of nearly 5,000. It is bounded on the north by Mack avenue, an important highway leading out of Detroit; on the east by Fisher road; on the south by Lake St. Clair; and on the west by Cadieux road. Its most southerly cross-street is Jefferson avenue, also an important highway leading out of Detroit. It has five other streets crossing east and west, the most important being Kercheval, which, leading out of Detroit, crosses the village of Grosse Pointe Park, and the defendant village, and to the village of Grosse Pointe Farms. It is a main highway of

Detroit and of the villages. The defendant village has several north and south streets, the first east of Cadieux being Notre Dame, and the second being St. Clair, which is the chief north and south street being 100 feet wide and extending between Jefferson avenue and Mack avenue.

Under the ordinance there are five zones. Three are resident which take nearly the whole area of the village. There is a small, narrow commercial zone along Mack avenue. The remaining zone is "Local Business District," which comprises a narrow strip on each side of Kercheval near two and one-half blocks in length beginning at Cadieux. There is also a small business district in the southeastern part of the village. Within the local business zone are a few corner lots as to which the ordinance provides: "On a corner lot there shall be a side yard along the side street lot line in all cases where such line is substantially the continuation, without intervening streets, of the street lot line of lots in an adjoining residence district, or of adjoining lots in a local business district on which a front yard is required herein. The width of such side yard shall be not less than ten feet, except that where the width of a corner lot of record at the time of passage of this ordinance is less than fifty feet, the width of the required side yard on that lot may be reduced to one-fifth of the width of such lot."

The controversy is of the side yard set back.

Plaintiff owns a lot on the southeast corner of the intersection of Kercheval and St. Clair. It has 60 feet frontage on Kercheval. Plaintiff desires to occupy it fully with a store building. The village requires, under the ordinance as here applied, a side yard or setback 10 feet wide along St. Clair. On the northwest corner of the intersection a building has been erected having a 10-foot setback along St. Clair. The ordinance does not apply to the southeast corner of the intersection of Cadieux and Kercheval, nor to the southwest corner of Notre Dame and Kercheval, for, immediately back of the business district south of Kercheval, and between Notre Dame and Cadieux, there is an "intervening" street, one block in length, called Kercheval place.

The ordinance is not now applicable to the northeast and southeast corners of the intersection of Kercheval and Notre Dame as such corners were fully occupied by buildings when the ordinance was passed. The ordinance by its terms will become there effective in case of new buildings on such corners. The ordinance has present application, as we read the record, to seven of the twelve corner lots in the local business district.

Kercheval has heavy traffic, including motorbusses. There are traffic lights at its intersections with St. Clair, Notre Dame, and Cadieux, and officers are kept on duty in that district. It is the chief business district of the village and of large adjoining territory. The site of the public school is just north of Kercheval between Cadieux and Notre Dame. The Community Building is just north of Kercheval near St. Clair. St. Clair is not yet paved to its full width, the pavement now being 30 feet wide.

The ordinance requires, in the residence district adjoining the property in question, a front building line or setback of 20 feet. Dwellings were erected on St. Clair before the zoning ordinance, and those south of the plaintiff's property and on that street have a mean or average setback of a little more than 10 feet. The mean setback along the street is 10 feet or more.

The evidence is that the open spaces make for better light and air, and that such a setback as required of plaintiff makes less obstruction to view at the intersections and makes for public safety in public use of the streets.

Appellant argues that the setback is unnecessary as the pavement on St. Clair is now only 30 feet wide. But it must be remembered that zoning is rooted in a plan not for to-day but for the to-morrow. It looks to the day when St. Clair will be fully paved. It is said in Pritz *v.* Messer *et al.*, 112 Ohio St. 628, 149 N. E. 30, 35: "This problem must be viewed from the standpoint of coming generations. Regarded from the limited outlook of the immediate present, it is easy to claim with some degree of cogency that there is no relation between these measures and the public health, safety, or morals. Taking a long view into the future, however, and looking back into the past, to remind ourselves what detriment the unrestricted congestion in city life, both of traffic and housing, has already done the public welfare, we do see a real relation between the substantial material welfare of the community and this effort of the city to plan its physical life."

It is urged that these zoning restrictions are for purely aesthetic reasons — beauty, symmetry, order. The law, in its present state, is that such restrictions are not sustained on purely aesthetic grounds. Indeed, in some cases, it has been said, where the restrictions were sustained on orthodox grounds — public health, morals, and safety — that the fact that they also result in incidental aesthetic benefit will not invalidate the zoning law or ordinance, as though the zoning were handicapped by resulting aesthetic benefits. In this regard, a quotation from American Bar Ass'n Journal, August, 1922, p. 470, appears in General Outdoor Adv. Co. *v.* City of Indianapolis (Ind. Sup.) 172 N. E. 309, 312, 72 A. L. R. 453: "The law * * * in recent years, is, * * * coming to take beauty into account as worthy of consideration. * * * It is now universally conceded that beauty may constitute an element in the public welfare which will justify the power of condemnation. * * * When we come to * * * the recognition of beauty as an element to justify the exercise of the police power * * * the courts have not been willing to acknowledge beauty as a justification, but without admitting it they are more and more giving weight to the consideration of fitness and propriety in a man's use of his own."

On this record the exercise of police power is sustained on consideration of public safety and public health without attaching weight to the fortunate circumstance that aesthetic benefit also results. Euclid *v.* Ambler Realty Co., 272 U. S. 365, 47 S. Ct. 114, 71 L. Ed. 303, 54 A. L. R. 1016.

Discrimination is urged as between owners of corner lots and owners of inside lots, but reasons, as regards public travel on the streets, for side setback on side street on corner lot can have no application to inside lots.

Unfair discrimination is urged in respect of mean setback in fixing unequal distances from the street for erection of buildings of the same character under like circumstances. We have called attention to the fact that the setback required of plaintiff is less than the mean setback of houses on the street and is fixed at the minimum of 10 feet. The contention is answered by Gorieb *v.* Fox, 274 U. S. 603, 47 S. Ct. 675, 676, 71 L. Ed. 1228, 53 A. L. R. 1210, where the setback line was fixed as that occupied by 60 per cent. of the existing houses in the block. This mean line in the case was 42 feet back from the street. The petitioner was given a line 34⅔ feet back from the street line. In affirming the decision

of the Supreme Court of Virginia, Gorieb *v.* Fox, 145 Va. 554, 134 S. E. 914, sustaining the ordinance, the court said:

"It is said, first, that the standard furnished is so vague and uncertain as in reality to be no standard at all, since the houses, or 60 per cent. of them, in any block may stand at a variety of distances from the street, in which event it cannot be determined from the ordinance whether 60 per cent. of the houses nearest to the street, or 60 per cent. of those farthest from the street, or some other method of calculation, is to govern. But in the present case this contention may be put aside, since (*a*) the permit was granted and the building line fixed under the proviso which reserved to the council in appropriate cases authority to fix the building line without reference to this limitation; and (*b*) as to the existing houses in the block in question, the actual differences in respect of the building lines upon which more than 60 per cent. of them stood are so slight as to be entirely negligible upon the question of certainty.

"The evidence shows that the variation in the location of 80 per cent. of the existing houses was only one-tenth of a foot, and, ignoring this inconsequential difference, the established building line was slightly over 42 feet back from the street. The line designated for petitioner's building was substantially more favorable to him than this, being more than 7 feet nearer the street. Whether the provision of the ordinance, fixing the line with relation to the location of 60 per cent. of the existing houses, in its general, or in some other specific, application is so vague as to amount to a denial of due process, is a question which does not concern petitioner, since, as applied to the facts in the present case, it is definite enough, and since, in any event, he has been excepted from the operation of the provision, and it does not appear that the alleged unconstitutional feature of which he complains has injured him or operated to deprive him of any right under the federal Constitution. * * *

"The proviso, under which the council acted, also is attacked as violating the equal protection clause, on the ground that such proviso enables the council unfairly to discriminate between lot owners by fixing unequal distances from the street for the erection of buildings of the same character under like circumstances. We cannot, of course, construe the ordinance as meaning that the power may be thus exerted; nor may we assume in advance that it will be exercised by the council capriciously, arbitrarily, or with inequality. It will be time enough to complain when, if ever, the power shall be thus abused." State ex rel. McKusick *v.* Houghton, 171 Minn. 231, 213 N. W. 907; Harris *v.* State, 23 Ohio App. 33, 155 N. E. 166.

The section of the ordinance leaves some discretionary power in the commissioners of the village and, likewise, in the common council, to which an appeal is permitted both by the statute cited and by the ordinance. It is clear that there has been no abuse of the power in this case.

To the contention that the ordinance further is discriminatory in respect of granting discretion to permit a setback of less than 10 feet when a corner lot of record at the time of passing the ordinance is less than 50 feet in width, it is sufficient to say that we cannot so find on this record.

The ordinance, of course, should have uniformity in its application. But there may be classification, if made on reasonable grounds, and it will be sufficient if the ordinance

applies in fair uniformity to all in the particular class. A particular corner might require larger setback than another corner and such classification, if reasonable, might be sustained. The ordinance applies fairly to the four corners at Kercheval and St. Clair where plaintiff's property is. There are only a few corners, as has been stated, to which the ordinance can apply. It is presumed the common council, in speaking of width of lot of record, had a purpose and knew what it was doing. Whether the ordinance would produce a different result at the intersection of Notre Dame and Kercheval we cannot say on this record. Whether the common council intended in effect a different result or classification for that corner or other corner we cannot say on this record. We cannot hold the ordinance invalid unless it is made to appear clearly and affirmatively to be unreasonable or oppressive in its operation. Building Commission *v.* Kunin, 181 Mich. 604, 148 N. W. 207, Ann. Cas. 1916C, 959. We decline to find invalidity in respect of the reason urged, and it will be time enough to complain when, if ever, power shall be abused.

This disposes of the case, no other questions calling for discussion.

Affirmed, with cost.

McDonald and Sharpe, JJ., concurred.

Fead, J.

Under the statute, Comp. Laws 1929, §§ 2633 to 2641, inclusive, authorizing zoning ordinances, it is provided that: "Such regulations shall be made in accordance with a plan designed to lessen congestion on the public streets, to promote public health, safety and general welfare. * * *" Section 2633.

The ordinance at bar contains two conditions of operation within the small local business district:

1. The corner lot must be contiguous to a residence district without intervening street. This excludes the south side of Kercheval avenue between Cadieux and Notre Dame. Any consideration of the statutory public purposes would apply with equal force to the exempted lots as to the others in the district. The exemption is arbitrary, discriminatory, and without basis of general welfare.

2. The width of the side yard varies with the width of the corner lot of record at the time of passage of the ordinance. It is obvious that the public purposes may be worked out reasonably only by the establishment of a definite standard of side yards. The size of the frontage owned by an individual can have no substantial relation to such public purpose.

The conditions of its operation clearly render the ordinance unreasonable, arbitrary, discriminatory against plaintiff, not upon a plan fairly designed to accomplish the statutory purposes, and invalid. The question of constitutionality of the statute is not raised.

The judgment will be reversed, and writ of mandamus issued as prayed, with costs.

Butzel, Wiest, and North, JJ., concurred.

Potter, J.

I dissent from the opinion of Mr. Chief Justice Clark. The ordinance, quoted in his

opinion, was passed after plaintiff acquired the real estate in question. The ordinance may not, in my opinion, be sustained under the police power. It could be sustained under the power of eminent domain if it provided for just compensation to plaintiff. It does not do this and is, therefore, unconstitutional and void.

[There follow nearly four pages, chiefly quotations from other decisions relating to the nature of property and takings of it.]

* * * * * * * * * * * * * * *

Judgment should be reversed.

SCL